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IN THE

Supreme Court of the United States

October Term, 1993

NTA GRAPHICS, INC.,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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December 3, 1993

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QUESTIONS PRESENTED

1. In crafting an appropriate bargaining unit in a simple, single-product commercial printing operation, should the National Labor Relations Board be permitted to depart, without explanation or justification, from its established rule that the appropriate bargaining unit in even relatively sophisticated operations should include, at a minimum, pressroom and preparatory employees as opposed to isolating a unit of press employees alone?

2. Should such a departure, permitted by the Sixth Circuit in this case, be judicially enforced when the only other such attempted departure was denied enforcement by the Seventh Circuit?

3. Should an administrative agency depart from its prior standards without any explanation of its legal basis or reasons for doing so?

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PETITION FOR WRIT OF CERTIORARI

Petitioner, NTA Graphics, Inc.,[1] respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit entered in this case on June 21, 1993.

[1] All of the parties to this petition are listed in the caption. NTA Graphics, Inc. has no parent companies or subsidiaries.

OPINIONS BELOW

The order of the United States Court of Appeals for the Sixth Circuit, which was entered in this matter on June 21, 1993, is styled, *National Labor Relations Board v. NTA Graphics, Inc.* It appears at App. A1.

The Decision and Order of the National Labor Relations Board is reported at 307 N.L.R.B. No. 224 (1992). It appears at App. A5.

The Order of the National Labor Relations Board (September 25, 1987) appears at App. A13.

JURISDICTION OF THE SUPREME COURT

The judgment of the Court of Appeals for the Sixth Circuit was entered on June 21, 1993. A petition for rehearing was denied by the United States Court of Appeals for the Sixth Circuit on August 23, 1993.

An order signed by Justice John Paul Stevens on November 15, 1993 extended to December 6, 1993 the time to file a petition for a writ of certiorari. This petition was filed on or before that date.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1).

STATUTES INVOLVED

The relevant provisions of the National Labor Relations Act (the "Act"), as amended, 29 U.S.C. §§ 151-69, are set forth below:

> Sec. 7. "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 158(a)(3) of this title." 29 U.S.C. § 157.
>
> Sec. 8. "(a) It shall be an unfair labor practice for an employer—
>
> (1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 of this title;
>
> . . . .
>
> (5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 159(a) of this title." 29 U.S.C. § 158(a)(1) and (a)(5).
>
> Sec. 9. "(a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment. . . ." 29 U.S.C. § 159(a).

Sec. 10. "(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency.... The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to section 2072 of Title 28."

....

"(e) The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive." 29 U.S.C. § 160(b) and (e).

The relevant provisions of the Administrative Procedures Act, 5 U.S.C. §§ 551-59, 704-06, are set forth below:

"All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record...." 5 U.S.C. § 557(c).

"The reviewing court shall—

. . . .

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(E) unsupported by substantial evidence. . . ." 5 U.S.C. § 706(2)(E).

STATEMENT OF THE CASE

Proceedings Below

The United States Court of Appeals for the Sixth Circuit in this case enforced an order of the National Labor Relations Board holding that a unit composed solely of pressroom employees is appropriate for the purposes of collective bargaining. Designation of such a unit is contrary to the Board's established approach to this area. When the Board attempted to vary from this long line of authority in *Continental Web Press, Inc.*, 262 NLRB 1395, 110 L.R.R.M. (BNA) 1451 (1982) (upon which the Board and its Regional Director relied in this case), the United States Court of Appeals for the Seventh Circuit denied enforcement of the Board's order in a decision highly critical of the Board's departure from its prior holdings. *See Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087 (7th Cir. 1984).

Petitioner, NTA Graphics, Inc. ("Company'" or "Employer"), is a commercial printer, whose single product is advertising inserts for grocery stores. Five departments at a single plant are involved in the production of this product, including the Composition Department, the Pre-Press Department, the Press Department, the Shipping/Receiving Department and the Maintenance Department.

In 1987, the Graphic Communications International Union, Detroit/Toledo/Lansing Local 289, AFL-CIO-CLC ("Union"), filed a petition seeking to represent the Company's employees in collective bargaining. The Union originally petitioned for a unit consisting of the employees in the Pre-Press and Press Departments (*i..e.*, all employees directly involved in lithographic production operations), which is at least arguably consistent with some Board precedent in this area. The Employer, relying upon Board decisions involving printing

operations like those involved here (*i.e.*, simple, single-product offset printing processes), urged a traditional production and maintenance unit. *See, e.g., Check Printers, Inc.*, 205 NLRB 33, 83 L.R.R.M. (BNA) 1540 (1973).

After the hearing on its representation petition, the Union changed its stance and argued that the appropriate unit should include only the employees in the Press Department. The Board's Regional Director adopted the Union's new-found position and decided that the bargaining unit should consist of only pressroom employees (App. A15). As sole legal support for his decision, the Regional Director relied upon the decision by the Board in *Continental Web Press*, 262 NLRB 1395, 110 L.R.R.M. (BNA) 1451 (1982).

Continental Web, however, is an aberration. All prior Board precedent deciding the appropriate units in commercial printing operations fell into two categories: (1) in highly skilled and highly technical operations, the unit consisted of both preparatory and press department employees, *e.g., Earl Litho Printing Co.*, 116 NLRB 1538, 1539, 39 L.R.R.M. (BNA) 1040 (1956) ("the Board has consistently held that all employees engaged in the lithographic production process form a cohesive unit for collective bargaining purposes and has established units which included all such employees without regard to the specific skills of the employees or the departmental nature of the unit sought"); or, (2) in less sophisticated printing operations, a traditional production and maintenance unit is appropriate, *e.g., Check Printers, supra.*

Continental Web is the only decision by the Board paring out a unit of only pressroom employees—a marked departure from this well-established precedent. It was for this reason that the Seventh Circuit refused to

enforce the Board's order, concluding that it was "arbitrary" to "discard . . . without explanation" a "clear policy that seems applicable to this case." *Continental Web*, 742 F.2d at 1093.

In the instant case, the Employer sought review by the Board of the Regional Director's decision to isolate the Press Department employees in a separate bargaining unit. In a cursory split decision, two members of the three-member Board panel decided to deny the request (App. A13). Without any specific discussion of the facts, Members Babson and Johansen simply stated that the "facts here warrant a departure from the traditional unit of lithographic production employees" (*Id.*). Member Stephens dissented, stating that the request should have been granted in order to determine the applicability of the decision of the Seventh Circuit denying enforcement of *Continental Web* (App. A14).

After the Employer engaged in a technical refusal to bargain with the Union, an unfair labor practice charge was filed and disposed of with summary judgment by the Board ordering the Employer to engage in collective bargaining with the Union for only the pressroom employees (App. A5). Pursuant to Section 10(e) of the Act [29 U.S.C. § 160(e)], the Board petitioned the Sixth Circuit for enforcement of its order.

The Sixth Circuit granted the petition for enforcement (App. A1). A panel of the Court, engaging in only the most perfunctory review of the Board's decision, failed to even acknowledge that the Board was departing from established rules of bargaining unit composition in the printing industry. The panel did not mention the Seventh Circuit's decision in *Continental Web*. The panel's failure to even note that the Board was ignoring a long line of precedent in isolating a unit composed only of pressroom employees in this case amply demonstrates the superficiality of its analysis.

Statement of Facts

Press Department employees at the Company are but one segment of a multi-step, functionally integrated printing operation. The terms and conditions of their employment are largely similar to their peers at other steps in the process.

As indicated above, the Company is a relatively simple commercial printing operation whose standard product is a grocery advertising insert to be included in newspapers. These inserts are printed on a standard four-color offset web press. This process is a garden-variety offset printing process, and the Employer is not involved in technically advanced press operations.

In producing the Company's single product, an advertising insert, there is, and must be, a great deal of contact and communication between the Press Department and the other departments that precede and follow it. Any project received from one of the Company's grocery clients begins with copy provided by the customer. The project then proceeds to the Composition Department, where job tickets are made instructing all departments on how the job should be performed. These job tickets are then personally distributed to all the other departments. The Composition Department consults with the Pre-Press Department on color and configurations, spending some one to five hours per day in discussion. It also instructs the Press Department on paper size and quantities. The Shipping/Receiving Department is given directions on the timing and destination of shipments.

The project then proceeds to the Pre-Press Department, where the copy provided by the grocery store is photographed. Strippers employed in the Pre-

Press Department take the photographic flats, strip out the color, and then organize the pages in accordance with the instructions provided by the Composition Department. Plates are prepared and proofread, and those plates are then assembled and organized, and skid labels and bundle tags prepared by the Composition Department are attached.

The order in which various projects are run is determined by the Plant Superintendent. After the run sequence has been determined, the projects are placed in folder racks and made available to the Press Department.

Once the plates are available, employees in the Press Department obtain those plates from the Pre-Press Department, hang them in accordance with instructions on the job ticket prepared by the Composition Department, and then printing begins. The first readable copy is proofread by the pressman against the job tickets prepared by the Composition Department to make sure the pagination is correct. An initial readable copy is also taken back to the Pre-Press Department for proofreading to make sure it conforms to the original copy provided by the customer.

The pressman is assisted by a jogger, who, in addition to providing miscellaneous help, takes the printed product off the end of the press and sweeps up around the press. In sum, the jogger is an unskilled worker who helps the pressman. The Company usually selects its pressmen from the ranks of the joggers.

The Company requires no particular educational or experience levels for its pressmen, its joggers or its employees in other Departments. The Company has no apprenticeship program, nor does it require any special technical schooling of any sort of any of its employees.

The Sixth Circuit stressed that the Company's pressmen supposedly have certain advanced skills, which justify their inclusion in a separate unit. The Court emphasized that the "pressroom is the only department in the Company that designates a skill level promotion after three years experience" (App. A3). In actuality, though, eight of the eleven pressmen were trainees in the first three years who, like the Company's other employees, were simply learning on the job (App. A3). Pressmen have no particular prior educational or job experience requirements and, as mentioned above, are typically drawn from the ranks of the unskilled joggers. Ironically, the Employer's truck drivers are at least required to have a chauffeur's license, and some of the material handlers hold forklift licenses.

Pressmen are given an operating manual prepared by the manufacturer of the press. Other employees in the Pre-Press Department have similar operating manuals for the equipment they use, and the truck drivers are furnished special rules and regulations applicable to them. There is no further evidence of any special expertise required of the pressmen.

Neither the Sixth Circuit nor the Board considered the many similarities in wages, hours and working conditions shared by Press Department and other employees. All employees of the Company, with the exception of top management, are hourly employees. They all punch the same time clock. The hourly rates for the various departments at the time of the hearing were largely consistent as Pre-Press Department employees earned $4.90 to $9.50 per hour, while Press Department employees earned $3.85 to $9.00 per hour.

Employees in all the departments are subject to the same employment policies and receive the same fringe benefits. They are subject to the same disciplinary rules and procedures, including rules on absenteeism, smoking, telephone calls, solicitation and security. They all enjoy the same vacation, life insurance and health insurance benefits. They are subject to the same overtime assignment and compensation programs. They all receive the same shift premium.

The Sixth Circuit, observing that the "main pressroom is physically separated from the other parts of the Company's building by brick walls," suggested that this putative physical isolation justified segregation for collective bargaining purposes. (*Id.*) The Pressroom is, however, the center of the Employer's plant where the pressmen and joggers work for the bulk of their workday, and where employees in several other Departments are taken in the performance of their duties. Adjacent to the Pressroom are the Pre-Press Department, the Shipping/Receiving Department and the maintenance office, and the pressmen are regularly in these other areas for a variety of purposes, for example, visiting the Pre-Press Department when problems arise during a press run.

All employees have an additional reason to be in the Pressroom other than the performance of customary job duties. The time clock is located there, which is punched by everyone. The plant includes a cafeteria and there is a picnic table in front of the plant for use by the employees. These facilities are used by employees in all the production and maintenance departments. A locker room in the Pressroom is used by employees in the Press, Shipping/Receiving and Maintenance Departments.

REASONS FOR GRANTING THE WRIT

1. The Sixth Circuit Has Permitted The National Labor Relations Board To Depart From Prior Standards Without Any Meaningful Explanation Of Its Legal Basis Or Reasons For Doing So, Contrary To Decisions Of This Court And The Fifth, Seventh, Ninth And District Of Columbia Circuits.

For many years and in several cases, the National Labor Relations Board has held that an appropriate bargaining unit in the printing industry must include at least those preparatory and press employees involved in the lithographic production process:

> "For many years, through many changes of Administration, the Board has been saying that pressmen and preparatory employees compose one unit in lithographic printing plants. See, e.g., *NLRB v. Lord Baltimore Press, Inc.*, 370 F.2d 397, 400 and n.4 (8th Cir. 1966); *Meyer Label Co.*, 232 N.L.R.B. 933 (1977), rev'd 597 F.2d 18 (2d Cir. 1979); *Moore Business Forms, Inc.*, 216 N.L.R.B. 833, 834 (1975); *George Rice & Sons*, 212 N.L.R.B. 947 (1974); *Paramount Press, Inc.*, 187 N.L.R.B. 586 (1970); *Sherwin-Williams Co.*, 173 N.L.R.B. 316 (1968); *A.B. Hirschfeld Press, Inc.*, 140 N.L.R.B. 212, 216 (1962); *Allen, Lane & Scott*, 137 N.L.R.B. 223, 225 (1962) ('long-standing rules'); *Earl Litho Printing Co.*, 116 N.L.R.B. 1538, 1539 (1956) ('The Board has consistently held that all employees engaged in the lithographic production process form a cohesive unit for collective-bargaining purposes and has established units which included all such employees without regard to the specific skills of the employees or the departmental nature of the unit sought'); *A.B. Hirschfeld Press, Inc.*, 96 N.L.R.B. 1068, 1069 (1951)

> ('absent unusual circumstances, all employees engaged in the lithographic process form an indivisible entity for the purposes of collective bargaining'); *Johnson City Publishing Co.*, 81 N.L.R.B. 1341, 1342 (1949); *Manz Corp.*, 79 N.L.R.B. 211, 212 (1948); cf. *NLRB v. Krieger-Ragsdale & Co.*, 39 F.2d 517, 520 (7th Cir. 1967); *National Blank Book Co.*, 246 N.L.R.B. 921 (1979); *Olin Corp.*, 229 N.L.R.B. 793 (1977). The earlier cases are more emphatic on this score than the later ones, but, so far as we can tell, this is only because the policy had become so well established that allusion was all that was required to invoke it. See, e.g., *Confort & Co.*, 267 N.L.R.B. No. 47, at p. 5 (Aug. 25, 1983) (citing *Allen, Lane & Scott, supra*)." *Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087, 1092 (7th Cir. 1984).

See also R. W. Nowels, 219 NLRB 222, 89 L.R.R.M. (BNA) 1705 (1975); *Continental Can Co.*, 217 NLRB 316, 89 L.R.R.M. (BNA) 1283 (1975); *Community Service Publishing*, 216 NLRB 997, 89 L.R.R.M. (BNA) 1261 (1975).

In this case, the Board ignored this long line of authority, instead plucking out a small unit of pressroom employees alone. The Board conceded that it was departing "from the traditional unit of lithographic production employees" (App. A13). The only reason given for this departure was that there was "insufficient evidence of cohesiveness" between the preparatory and pressroom employees. (*Id.*) The Board failed in any respect to identify what dissimilarities in employment conditions it found to be significant in finding that the pressroom employees were not cohesive with other employees. It failed to explain what factors

led it to conclude that prior rules on the composition of bargaining units in the printing industry should not be followed.

The Seventh Circuit has refused to enforce virtually the same order of the Board in essentially identical circumstances. Holding to well-subscribed principles of federal administrative law, the Court refused to countenance the Board's attempts to arbitrarily vary from existing rules without explanation:

> "The Board is allowed to reverse course. But it has got to give reasons, or else the reversal is arbitrary. This general principle of administrative law [citations omitted], is fully applicable to unit determinations. [Citations omitted.] The Board gave no reasons for changing course in this case—and in fact denied doing so." *Continental Web*, 742 F.2d at 1093.

The Court noted that "by a course of adjudications extending over many years, the Board succeeded in developing a clear policy that seems applicable to this case," which was to include both press and preparatory employees in a bargaining unit. *Id.* The Court then held that "to discard the policy without explanation would be arbitrary." *Id.*

Nearly 40 years ago, this Court established as a fundamental precept of federal administrative law that administrative agencies must explain their reasons for departing from previously recognized policies and standards. In *Secretary of Agriculture v. United States*, 347 U.S. 645 (1954), the Court charged administrative agencies with the following duty:

> "[T]he Commission has not adequately explained its departure from prior norms and has not sufficiently spelled out the legal basis of its decision . . . In

> short, the Commission has not explained its decision 'with the simplicity and clearness through which a halting impression ripens into reasonable certitude. In the end, we are left to spell out, to argue, to choose between conflicting inferences. Something more precise is requisite in the quasi jurisdictional findings of an administrative agency. [Citations omitted.] We must know what a decision means before the duty becomes ours to say whether it is right or wrong.' *United States v. Chicago, M. St. P. & P. R. Co.*, 294 U.S. 499, 510-511." *Id.* at 653-54.

In a dissenting opinion in *NLRB v. Curtin Matheson Scientific, Inc.*, 494 U.S. 775 (1990), Justice Blackmun criticized the National Labor Relations Board for its departure, "without explanation, from principles announced and reaffirmed in its prior decisions." *Id.* at 799. Justice Blackmun reasoned that requiring an agency to provide some explanation of its rationale permits the courts to provide sensible limits on the authority of an unelected bureaucracy without needlessly invading the discretion that should be accorded expert administrative agencies:

> "But courts can and should review agency decisionmaking closely to ensure that an agency has adequately explained the bases for its conclusions, that the various components of its policy form an internally consistent whole, and that any apparent contradictions are acknowledged and addressed. This emphasis upon the decisionmaking *process* allows the reviewing court to exercise meaningful control over unelected officials without second-guessing the sort of expert judgments that a court may be ill equipped to make. Such an approach also affords the agency a broad range of discretion. Confronted with a court's conclusion that two of its policy pronouncements are inconsistent, the agency may choose for itself which path to follow, or it may attempt to explain why no contradiction actually exists." *Id.* at 800.

As the District of Columbia Circuit has observed, "an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored, and if an agency glosses over or swerves from prior precedence without discussion, it may cross the line from the tolerably terse to the intolerably mute." *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971).

This basic tenet of administrative law has been repeatedly applied in reviewing decisions of the National Labor Relations Board. When the Board abandoned its prior rule that an adverse inference may be drawn against a party who has relevant evidence within his control which he fails to produce in *United Automobile Workers of America v. NLRB*, 459 F.2d 1329 (D.C. Cir. 1972), the Court reversed the Board because "the agency obviously has not followed the numerous precedents which seem to require use of the adverse inference rule." *Id.* at 1341. Recognizing "an elementary tenet of administrative law that an agency must either conform to its own precedents or explain its departure from them," the District of Columbia Circuit found it arbitrary for the Board to choose without explanation to ignore prior decisions.

In *NLRB v. International Union of Operating Engineers, Local 925*, 460 F.2d 589 (5th Cir. 1972), the Court refused to enforce a Board order holding a union business manager personally liable for back pay, contrary to prior Board decisions. The Court recognized that the Board could adopt new approaches, but could only do so explicitly with a stated rationale:

> "It is, of course, true that the Board is free to adopt new rules of decision and that the new rules of law can be given retroactive application. Nevertheless,

> the Board may not depart sub silentio, from its usual rules of decision to reach a different, unexplained result in a single case. . . . Here, the Board's departure from its prior rule was wholly unexplained in its decision." *Id.* at 604.

The Ninth Circuit has adopted the same approach as the Fifth Circuit. *See NLRB v. Silver Bay Local Union No. 962, International Brotherhood of Pulp Workers,* 498 F.2d 26, 29 (9th Cir. 1974).[2]

The Sixth Circuit in this case impermissibly allowed the Board to unilaterally abandon prior rules without explanation, ignoring fundamental principles of federal administrative law set out by this Court and observed by several circuits. The Board cavalierly abandoned traditional rules for reasons not explained, save in the conclusory label of "insufficient evidence of cohesiveness." The petition for writ of certiorari in this case should be granted to bring the Sixth Circuit, and the Board, into conformity with basic maxims of federal administrative law requiring agencies to simply explain why they are reaching the conclusions they reach, particularly when those conclusions are at odds with previous decisions of the same agency.

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[2] That the Board is required to set forth reasons for its abandonment of prior precedents is reinforced in relevant statutes. The Board's unfair labor practice proceeding in this case is a formal adjudication, governed by the Administrative Procedures Act. That act requires "findings and conclusions, and the reasons or bases therefor, on all the material issues of fact, law, or discretion presented on the record." 5 U.S.C. § 557(c). The National Labor Relations Act commands that unfair labor practice proceedings must be conducted formally in accordance with the federal rules of evidence, and both the National Labor Relations Act and the Administrative Procedures Act call for reversal of agency determinations that are not supported by substantial evidence. See National Labor Relations Act, 29 U.S.C. § 160(b) and (e); Administrative Procedures Act, 5 U.S.C. § 706(2)(E).

2. The Sixth And Seventh Circuits Are Diametrically Opposed In Their Review Of Efforts By The National Labor Relations Board To Abruptly Scuttle Its Traditional Rules On Bargaining Unit Composition In Commercial Printing Operations Without Reason Or Justification.

The National Labor Relations Board in this case severed out a small unit of Press Department employees, divorcing them for the purposes of collective bargaining from the preparatory employees in the Composition and Pre-Press Departments who produce the job packets and plates that are then physically used by the Press Department employees to print grocery inserts. While preparatory and press employees have long been held to be the appropriate bargaining unit in commercial printing operations, the Board summarily concluded "that the facts here warrant a departure from the traditional unit of lithographic production employees" (App. A13). With respect to the "facts" that were said to justify variation from the Board's usual principles, the Board cryptically observed only that there was "insufficient evidence of cohesiveness" between the preparatory and pressroom employees (*Id.*). The Sixth Circuit searched through the record to find some evidence to support the Board's decision, and then purported to do so by parroting a few unjustified inferences drawn by the Board from generally erroneous factual findings, all offered in support of the Court's ultimate conclusion "that the Board did not abuse its discretion" (App. A3).

In reviewing the Board's determinations of appropriate bargaining units, this Court has stated that "we accord great respect to the expertise of the Board when its conclusions are rationally based on articulated

facts and consistent with the Act." *NLRB v. Yeshiva University,* 444 U.S. 672, 691 (1980). Yet, the Court has cautioned that limited judicial review of Board decisions does "not mean that the balance struck by the Board is immune from judicial examination and reversal in proper cases." *NLRB v. Brown Food Store,* 380 U.S. 278, 290-91 (1965). Indeed, "[t]he deference owed to an expert tribunal cannot be allowed to slip into a judicial inertia." *American Shipbuilding Co. v. NLRB,* 380 U.S. 300, 318 (1965).

The National Labor Relations Act itself calls for effective judicial review of Board decisions. *See* National Labor Relations Act, Section 10(e) and (f), 29 U.S.C. § 160(e) and (f). While the courts have been deliberately slow to overrule the Board and other administrative agencies, "they are not constrained to 'sheer acceptance' of the Board's conclusions," *Republic Aviation Corp. v. NLRB,* 324 U.S. 793, 803 (1945), *quoting Eastern-Central Motor Carriers Ass'n v. United States,* 321 U.S. 194, 209 (1945), nor are they obliged " 'to stand aside and rubber stamp' Board determinations that run contrary to the language or tenor of the Act." *NLRB v. J. Weingarten, Inc.,* 420 U.S. 251, 266 (1975), *quoting Brown Food Store,* 380 U.S. at 291.

Utilizing these standards in a case indistinguishable from this, the Seventh Circuit in *Continental Web Press, Inc. v. NLRB,* 742 F.2d 1087 (7th Cir. 1984), denied enforcement of the Board's attempt to gerrymander a bargaining unit of pressroom employees only, as opposed to the traditional lithographic unit of pressroom and preparatory employees. The Court noted that, "by a course of adjudications extending over many years, the Board succeeded in developing a clear policy that seems applicable to this case; and to discard the policy without explanation would be arbitrary." *Id.* at 1093.

Segregating a small unit of pressroom employees, and divorcing them from the pre-press and other employees involved in the Company's production and maintenance operations contravenes federal labor policy that has long frowned upon a multiplicity of small bargaining units in a single work force. As the Seventh Circuit noted in *Continental Web,* multiple bargaining units create the possibility that an employer will have to engage in a costly set of separate negotiations with a number of different unions. *See Continental Web,* 742 F.2d at 1090. Further, different units with different representatives create multiple possibilities for work stoppages, which create burdens for far more than the employer.

> "The different unions may have inconsistent goals, yet any one of the unions may be able to shut down the plant (or curtail its operations) by a strike, thus imposing costs on other workers as well as on the employer's shareholders, creditors, suppliers, and customers" *Id.*

Additionally, "breaking up a work force into many small units creates a danger that some of them will be so small and powerless that it will be worth no one's while to organize them, in which event the members of these units will be left out of the collective bargaining process." *Id.* Thus, in a case such as the present, surgically excising out a unit of only pressroom employees may have the effect of disenfranchising smaller and less powerful groups, like the Employer's material handlers and others.

Because of these considerations, the Board has come to more critically scrutinize efforts to sever craft units out of larger industrial units. *See Mallinckrodt Chemical Works,* 162 NLRB 387, 64 L.R.R.M. (BNA) 1011 (1966).

Indeed, it has been recognized that "the industrial unions forcefully argue that separate bargaining units jeopardize the right of all employees in that a strike by the skilled workers could effectively shut down the employer's entire operation." John E. Abodeely, Randi C. Hammer, Andrew L. Sandler (IRU), *The NLRB and The Appropriate Bargaining Unit* 87 (rev. ed. 1981). A leading labor law treatise notes "that the *Mallinckrodt* standard usually results in a denial of craft severance." Section of Labor and Employment Law, American Bar Association, Patrick Hardin (BNA), *The Developing Labor Law* 466 (3d ed. 1992).

In this case, the Board with the endorsement of the Sixth Circuit swims contrary to a torrent of precedent in the skilled trades, including the printing industry, and establishes a bargaining unit composed solely of pressroom employees, even excluding the preparatory employees that have always been a part of the traditional lithographic bargaining unit. The Sixth Circuit has itself noted in other cases that such a marked departure from the traditional rules specifically applied in the printing industry, as well as general principles of federal labor law policy the Board has employed in all trade units, deserves the closest degree of scrutiny:

> "However, despite this broad discretion, '[c]areful' judicial scrutiny of the Board's action is necessary . . . in the face of accusations of failure to abide by precedent since the courts have an obligation to ensure that administrative agencies adhere to enumerated policies and procedures." *NLRB v. Engineers Constructors, Inc.*, 756 F.2d 464, 467 (6th Cir. 1985), *quoting Hall-Brooke Hospital v. NLRB*, 645 F.2d 158, 160 (2d Cir. 1981).

This Court has also looked with a sharper eye at variations by administrative agencies from established policies. "An agency interpretation of a relevant provision which conflicts with the agency's earlier interpretation is 'entitled to considerably less deference' than a consistently held agency view." *INS v. Cardozo-Fonseca*, 480 U.S. 421, 446 n.30 (1987), *quoting Watt v. Alaska*, 451 U.S. 259, 273 (1981). *See also NLRB v. United Food & Commercial Workers Union*, 484 U.S. 112, 124 n.20 (1987).

In *Continental Web*, the Seventh Circuit concluded that the Board's unprecedented attempt to isolate a unit of pressroom employees from all others could not withstand such close examination. The Court found that the alignment of interests between the pressroom and preparatory employees was substantial, that the differences between the two, as portrayed by the Board, were insignificant, and that paring out a unit composed solely of pressmen was arbitrary. The Court noted that the preparatory and pressroom employees worked in separate but adjacent work areas, as is the case here. Pressroom employees visited the preparatory department to pick up plates at Continental Web, as they do at the Employer's plant. Pressmen and preparatory employees at Continental Web were paid about the same, and pre-press employees at the Company earn from $4.90 to $9.50 while press employees earn $3.85 to $9.00. Press and preparatory employees at Continental Web enjoyed the same fringe benefits and worked the same basic number of hours per week, which is also true in this case.

The Board in *Continental Web* emphasized certain differences between press and preparatory employees, which the Seventh Circuit found to be insignificant. Many of the same unimportant distinctions were relied

upon by the Sixth Circuit and the Board in this case in order to drive a fictional wedge of divisiveness between press and pre-press employees.

Pressmen at Continental Web wore smocks, while preparatory employees did not, and the Sixth Circuit in this case noted as significant the fact that pressroom employees "wear distinctive uniforms" (App. A4). The Seventh Circuit scoffed at this inconsequential distinction, which was simply attributable to the fact that "the pressman's work is dirtier." 742 F.2d at 1092. The Seventh Circuit pointed out that the Board and the Regional Director in "[t]heir opinions recite the differences in working conditions that we have mentioned . . . and then tack on a conclusion that therefore the pressmen have a sufficient community of interest to be a separate unit." *Id.* The Court summarized the Board's lack of analysis succinctly: "We understand everything but the 'therefore.' " *Id.*

There were, in fact, more significant differences between the preparatory and press department employees in *Continental Web* than exist in this case. Continental Web preparatory and press department employees had different supervisors, while both groups of employees in this case were supervised by the Plant Superintendent. The two groups had different employee handbooks at Continental Web, while the same handbook and the same employment policies govern both pre-press and press department employees at the Company. Thus, to the extent any differences exist between this case and *Continental Web*, the pre-press and press department employees here are more closely allied. In legally indistinguishable situations, the Sixth Circuit in this case permitted and the Seventh Circuit in *Continental Web* rejected the Board's arbitrary attempt to isolate a unit of only pressroom employees. The Seventh Circuit

pointed out that "[a] number of cases explicitly refuse to sever preparatory employees from pressmen—the severance performed in this case." 742 F.2d at 1092-93.

The Sixth Circuit in this case found evidence "to support a conclusion that the pressmen at the Company enjoy a distinct community of interests" (App. A3). The Seventh Circuit found the supposed distinctions to be "small and unimportant," *Id.* at 1092, concluding that it was irrational to separate pressroom employees from preparatory employees, as the Sixth Circuit has done in this case:

> "Like [the employer] we find it difficult to understand why there should be separate units for pressmen and preparatory employees. . . . It is as if the Board had said that the workers at the beginning of an assembly line belong in a different bargaining unit from the ones at the end; for preparation and printing are successive stages in a single lithographic production process." *Id.* at 1091.

The Seventh Circuit meaningfully examined the real factors that might contribute to or detract from a community of interest between the two employee groups, as opposed to the Sixth Circuit's and the Board's superficial labeling process, which finds critical differences in matters such as one group of employees working around ink wearing smocks and the two groups of employees having different numbers on their timecards. The Board's approach in this case, seconded by the Sixth Circuit, is reminiscent of its approach in a prior case decided by this Court in which the Court criticized the Board's "absence of factual analysis" as reflecting "the Board's view that the managerial status of particular faculties may be decided on the basis of conclusory rationales rather than examination of the facts of each case." *NLRB v. Yeshiva University,* 444 U.S. 672, 691 (1980).

Close examination of the truly important employment factors that cause employees to share similar employment interests compelled the Seventh Circuit in *Continental Web* to conclude that separating pressroom employees out for inclusion in an isolated bargaining unit—apart from the skilled preparatory employees who are a part of the same lithographic process—is unmistakably arbitrary and unreasonable, as well as being contrary to the Board's "clear policy that seems applicable to this case." 742 F.2d at 1093. The Sixth Circuit in this case failed to review the Board's departure from established practices in the printing industry with the exacting scrutiny called for by this Court and other circuits, and thus reached a decision that is in unmistakable conflict with the Seventh Circuit. The Court should grant the petition for a writ of certiorari in this case to reconcile the manifest differences between the Seventh and Sixth Circuits.

CONCLUSION

The decision of the United States Court of Appeals for the Sixth Circuit in this case approving the National Labor Relations Board's stark and unexplained variation from traditional rules on the composition of bargaining units cannot be reconciled with the Seventh Circuit's refusal to sanction such a departure. The Sixth Circuit is also in conflict with the teachings of this Court and the holdings of several circuits requiring administrative agencies to at least set forth a rationale for varying from established rules and standards. The net effect of the Sixth Circuit's failures is to turn back the progressive tide of federal labor law policy that seeks to discourage the proliferation of multiple bargaining units in a single, small work force.

The petition for a writ of certiorari should be granted to allow the Court the opportunity to demand that the National Labor Relations Board employ consistent approaches to the definition of bargaining units under the National Labor Relations Act, and the further opportunity to reinforce the proposition that federal administrative agencies must either follow existing standards or alter them for justifiable reasons enunciated by the agency.

Respectfully submitted,

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December 3, 1993

APPENDIX

OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

(Filed June 21, 1993)

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

Sixth Circuit Rule 24 limits citation to specific situations. Please see Rule 24 before citing in a proceeding in a court in the Sixth Circuit. If cited, a copy must be served on other parties and the Court.

This notice is to be *prominently* displayed if this decision is reproduced.

No. 92-6085

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

NTA GRAPHICS, INC.,
Respondent.

ORDER

BEFORE: MERRITT, *Chief Judge*; GUY and BATCHELDER, *Circuit Judges.*

This is an unfair labor practice proceeding in which the National Labor Relations Board (NLRB or Board) makes an application for enforcement of its order to the

respondent, NTA Graphics (NTA or the Company), issued on July 24, 1992, and reported at 307 N.L.R.B. 224 (1992). The parties have waived oral argument. This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

NTA is a printing company whose primary product is newspaper advertising inserts. The Board found NTA guilty of unfair labor practices as a result of the Company's refusal to bargain with a certified bargaining unit. Section 8(a)(5) and (1) of the National Labor Relations Act, 29 U.S.C. § 151, et seq. The Company responded by challenging the composition of the bargaining unit. Stated another way, the Company argues that it is under no obligation to bargain with the Union because no labor representative has been chosen in a unit that is appropriate for the purposes of collective bargaining. Therefore, the Company's argument continues, it could not have engaged in an unfair labor practice.

The bargaining unit in question was determined by an election conducted on September 25, 1987. The appropriate unit was defined as "all full-time and regular part-time pressroom employees employed by the Employer at its Toledo, Ohio, facility, excluding all clerical employees and all professional employees, guards, and supervisors as defined in the Act and all other employees." The Company's contention throughout the unionization process has been that the only appropriate unit is an all-employee unit, not one limited to lithographic production employees.

The standard of review is for abuse of discretion. *NLRB v. First Union Management, Inc.*, 777 F.2d 330, 333 (6th Cir. 1985) (review of such a decision "extremely narrow"); *Indianapolis Glove Co. v. NLRB*, 400 F.2d 363, 366 (6th Cir. 1968). *But see NLRB v. Engineers Constructors, Inc.*, 756 F.2d 464, 467 (6th Cir. 1985) (despite this broad discretion, careful judicial scrutiny of the Board's action is necessary).

In determining whether the unit sought is appropriate, the Board generally seeks to ascertain whether the employees share a "community of interest." *See Kalamazoo Paper Box Corp.*, 136 N.L.R.B. 134, 137 (1962) (community of interest factors). Upon review, we conclude that the Board did not abuse its discretion. The record supports a finding of differences in working conditions sufficient to support a conclusion that the pressmen at the Company enjoy a distinct community of interests. The Company is divided into five functional divisions. The pressroom is one of the departments. In that department, one rises to the level of a "pressman" after three years experience. Before that time, one is considered a "trainee." *Cf. Check Printers, Inc.*, 205 N.L.R.B. 33 (1973) (inappropriate lithographic production unit because of the relatively simple and repetitive nature of the printing product and because the lithographers were trained within a short time). The pressroom is the only department in the Company that designates a skill level promotion after three years experience. This is evidence of a difference in skills and working conditions. *See Armco, Inc. v. NLRB*, 832 F.2d 357, 362-63 (6th Cir. 1987), *cert. denied*, 486 U.S. 1042 (1988). The main pressroom is physically separated from the other parts of the Company's building by brick walls. This is evidence of a lack of "functional integration." In

other words, it tends to suggest that there was not any significant interchange or transfer among employees of the various departments. Furthermore, the record reveals that the pressroom employees have separate supervision, may work a different schedule, wear distinctive uniforms, and are paid on a different scale. All these facts point to a sufficient "community of interests" that justifies the choice of bargaining unit in this case.

Accordingly, the application for enforcement of the order issued by the National Labor Relations Board is hereby granted. Rule 9(b)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF
THE COURT

/s/ LEONARD GREEN
Clerk

ISSUED AS MANDATE: 9/1/93
COSTS: $126.00
FILING FEE . . . . . $
PRINTING . . . . . $
TOTAL . . . . . $

DECISION AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Dated July 24, 1992)

SDR

307 NLRB No. 224

D—2924
Toledo, OH

Case 8—CA—24277

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

NTA GRAPHICS, INC.

and

GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT-TOLEDO LOCAL 289, AFL—CIO—CLC

DECISION AND ORDER

On February 25, 1992, the General Counsel of the National Labor Relations Board issued a complaint and notice of hearing alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification in Case 8—RC—13648. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g);

Frontier Hotel, 265 NLRB 343 (1982).) The Respondent filed its answer admitting in part and denying in part the allegations in the complaint.

On June 16, 1992, the General Counsel filed a Motion for Summary Judgment. On June 18, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain but attacks the validity of the certification on the basis of the Board's unit determination in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

Findings of Fact

I. Jurisdiction

The Respondent, an Ohio corporation with an office and place of business in Toledo, Ohio, has been engaged in high volume lithographic commercial printing. Annually, the Respondent sold and shipped from its facility goods valued in excess of $50,000 directly to points outside the State of Ohio. We find that the Respondent is an Employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

A. *The Certification*

Following the election held September 25, 1987,[1] the Union was certified on September 9, 1991, as the collective-bargaining representative of the employee in the following appropriate unit:

> All full-time and regular part-time press room employees employed by the Employer at its Toledo, Ohio, facility, excluding all clerical employees and all professional employees, guards, and supervisors as defined in the Act and all other employees.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

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[1] On October 2, 1987, the Respondent filed objections and on October 22, 1987, the Regional Director issued a Supplemental Decision and Order Directing Hearing on Objections and Challenge Ballots ordering that the issues raised be set for hearing and that the matter be consolidated with an unfair labor practice hearing in Case 8—CA—20167. Thereafter, charges in Case 8—CA—20458 and

(Footnote continued on following page.)

B. *Refusal to Bargain*

Since January 8, 1992, the Union has requested the Respondent to bargain and since January 15, 1992, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

Conclusions of Law

By refusing on and after January 15, 1992, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to

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(Footnote continued from preceding page.)

8—CA-20732 were consolidated for hearing with the above cases. On October 31, 1989, the administrative law judge found that the Respondent engaged in certain violations of Sec. 8(a)(1) and (3) but found no merit to other 8(a)(1), (3), and (5) allegations. On April 4, 1990, the case was remanded to the administrative law judge for further findings of facts and credibility resolutions. On July 5, 1990, the administrative law judge issued a Supplemental Decision clarifying certain of his credibility findings in the earlier decision.

The parties filed additional exceptions and briefs and on July 31, 1991, the Board issued a Decision and Order, 303 NLRB No. 155, finding that the Respondent violated Sec. 8(a)(1) and (3) and ordering that the unilateral change in shift hours allegation be held in abeyance and that jurisdiction of that issue be retained pending the opening and counting of the challenged ballots in the representation proceeding.

The representation proceeding was severed from the unfair labor practice proceedings and remanded to the Regional Director. A revised tally of ballots was issued and the Union was certified. (See 305 NLRB No. 108.)

cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, NTA Graphics, Inc., Toledo, Ohio, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with Graphic Communications International Union, Detroit-Toledo Local 289, AFL—CIO—CLC, as the exclusive bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time press room employees employed by the Employer at its Toledo, Ohio, facility, excluding all clerical employees and all professional employees, guards, and supervisors as defined in the Act and all other employees.

(b) Post at its facility in Toledo, Ohio, copies of the attached notice marked "Appendix."[2] Copies of the notice, on forms provided by the Regional Director for Region 8 after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. July 24, 1992

JAMES M. STEPHENS
Chairman

DENNIS M. DEVANEY
Member

JOHN N. RAUDABAUGH
Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

[2] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

D—2924

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Graphic Communications International Union, Detroit-Toledo Local 289, AFL—CIO—CLC, as the exclusive representative of the employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

> All full-time and regular part-time press room employees employed by the Employer at its Toledo, Ohio, facility, excluding all clerical employees and all professional employees, guards, and supervisors as defined in the Act and all other employees.

NTA GRAPHICS, INC.
(Employer)

Dated: _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 1240 East 9th Street, Room 1695, Cleveland, Ohio 44199-2086, Telephone 216—522—3729.

ORDER OF THE NATIONAL LABOR RELATIONS BOARD

(Dated September 25, 1987)

Case 8-RC-13648

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR
RELATIONS BOARD

NTA GRAHICS, INCORPORATED,
Employer,

and

GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT/TOLEDO/LANSING LOCAL 289, AFL-CIO-CLC,
Petitioner.

ORDER

Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review. In denying review the Board agrees with the Regional Director that the facts here warrant a departure from the traditional unit of lithographic production employees as there is insufficient evidence of cohesiveness between the preparatory employees and pressroom employees to warrant a broader unit. We note, in any event, that the Employer contended that the only appropriate unit was an all-employee unit, not one limited to lithographic production employees.

WILFORD W. JOHANSEN, *Member*
MARSHALL B. BABSON, *Member*

Member Stephens, dissenting:

I would grant the request for review in order to read the record and determine the applicability of *Continental Web Press v. NLRB*, 742 F.2d 1087 (7th Cir. 1984).

JAMES M. STEPHENS, *Member*

Dated, Washington, D.C., 25 September 1987.

DECISION AND DIRECTION OF ELECTION OF NATIONAL LABOR RELATIONS BOARD REGIONAL DIRECTOR

(Dated August 19, 1987)

Case No. 8-RC-13648

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR
RELATIONS BOARD

NTA GRAPHICS, INCORPORATED[1]
Employer

and

GRAPHIC COMMUNICATIONS INTERNATIONAL
UNION, DETROIT/TOLEDO/LANSING
LOCAL 289, AFL-CIO-CLC[2]
Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claim(s) to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:[3]

> All full-time and regular part-time press room employees employed by the Employer at its Toledo, Ohio, facility, excluding all office clerical employees and professional employees, guards and supervisors as defined in the Act and all other employees.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements.

Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Graphic Communications International Union, Detroit/Toledo/Lansing Local 289, AFL-CIO-CLC.

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, 3 copies of an election eligibility list, containing the names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Off. of Reg. 8, Suite 1695, 1240 E. 9th Street, Cleveland, Ohio on or before August 26, 1987. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570. This request must be received by the Board in Washington by September 2, 1987.

Dated August 19, 1987

(SEAL)

at Cleveland, Ohio

/s/ FREDERICK J. CALTRELLO
Regional Director, Region

[1] The Employer, whose name appears as amended at the hearing, is engaged in high volume lithographic commercial printing. Currently, it produces newspaper inserts for the grocery industry. Although the record does not disclose the exact number, there are approximately 40 employees in the unit of press employees found appropriate herein.

[2] The name of the Petitioner appears as amended at the hearing.

[3] The Petitioner seeks a unit of all press room employees. In its petition the Petitioner requested a unit of all pre-press department and press department employees. However, in its post-hearing brief the Petitioner moved to amend the petition to reflect the unit sought as limited to press room employees. Inasmuch as the motion has been served on the Employer and no objection thereto has been raised, the Petitioner's motion is hereby granted. Herein and in the record, "press room" and "press department" are synonymous terms.

Contrary to the Petitioner, the Employer asserts that an appropriate unit must include all production and maintenance employees. The unit urged by the Employer would include press room, pre-press department, composition department, shipping and receiving department, and maintenance department employees.

As noted above the Employer produces a grocery advertising insert to be included in various newspapers. These inserts are printed on a four color Harris Web offset press.

The Employer's product begins with a format provided by the customer which has its art work and typesetting either specified in advance or already in place. This model copy proceeds to the composition department

where "job tickets" are created instructing all other departments involved on how the particular assignment should be performed. The composition department consults with the pre-press department on color and other printing configurations. The composition department also gives to the press department instructions on paper size and quantities to be produced. The shipping and receiving department is given, via the job tickets, directions on the timing and destination of the shipments.

The five departments into which the Employer's work force is divided are each located in a separate, well defined area. A floor plan was introduced into evidence at the hearing showing that the composition department has offices in the front of the building. The pre-press area is across a hallway from the composition offices. The main press room is located in the approximate center of the building and is segregated by brick walls from all other areas of the building. There are two main entrances to the press room—one to the east, which opens into the shipping and receiving area, and one to the west, which opens into an area close to the employees' cafeteria. The shipping and receiving employees work in the area designated as the storage and high bay areas. The maintenance department is located in an unused secondary press room.

Press mechanics, as part of the maintenance department, are located in the maintenance and rebuilding room located in the north end of the building. In the maintenance department are included janitors, press mechanics and an individual who constructs wooden pallets. The shipping and receiving department is manned by drivers and material handlers. The composition department has one typesetter/layout and

one dispatch/layout employee. The pre-press department has cameramen, strippers and platers; and the press room has joggers, a pressman trainee, and press operators.

For the reasons set out below I have determined that the unit sought by the Petitioner herein, limited as it is to press department employees, constitutes a unit appropriate for purposes of collective bargaining.

The record taken as a whole discloses little contact between press employees and employees in the other departments. That is not to say that there is no contact, as the discussion below will disclose; however, such contact, particularly in light of other relevant factors, is not sufficient to sustain a finding that the press room employees do not share a community of employment interests separate and distinct from those of the other employees.

The record reflects that composition employees have virtually no day-to-day contact with press room employees. Composition employees, as noted above, prepare job tickets which contain the information needed to run a particular project. This information includes the number of copies, the size of the paper and other information needed by various departments. The job ticket is attached to the art work and the model of the advertisement which is given to the cameramen and eventually attached to the plate which the press operator receives from the platemaker.

In addition, the record does not disclose any contact between truck drivers working from the shipping and receiving department and the press room employees. Although material handlers frequently bring paper rolls

into the press room and remove pallets of finished material, they are in the press room for but a few minutes at most on each trip.

The press mechanics from the maintenance department enter the press room only when they are working on the presses. Work on the presses is not frequent, because minor maintenance is performed by the press operators themselves. The press mechanics work on the machines only when they are being installed or if there is a major malfunction or electrical problem. Furthermore, the mechanics are stationed in a room at the rear of the building which contains their tools and hoists. It is noteworthy that the mechanics are also engaged in the rebuilding of press units which the Employer then markets to other concerns.

The janitors who clean in the press room from one to three time daily do so only in the center of the room and only for a few minutes at a time. The press operators perform cleanup in and around the presses.

The record reflects that the Employer's pallet maker devotes his time to building wooden pallets in the area located in the high bay. He has no day-to-day contact with the press room employees except when he is temporarily assigned to the jogger position when the Employer's regular jogger is absent. The record testimony discloses that this occurs approximately four times a year. The jogger's function is to convey the printed product from the presses to the pallets which are placed in the press room for that purpose. In addition, the jogger cleans in and around the presses.

The record also discloses that the various departments are separately supervised. There is no common supervision except at the highest levels of management,

which is not significant on a day-to-day basis. The press room is supervised by Scott Shaffer on the day shift and Hollis Shaffer on the third shift. Each supervisor works approximately 10 hours a day. The press room supervisors have an office in the press room.

The composition department employees are supervised by David Tremonti, the Employer's vice president and operations manager. Tremonti also supervises the janitor and press mechanics. The pallet maker works principally by himself. The shipping and receiving employees are generally supervised by Randy Perdue who has an office in the storage area; and the pre-press area is supervised by Beryl Grisier.

The skills of the employees in the various departments vary significantly insofar as the nature of the skills possessed and the levels of skill required to perform the particular tasks. The record is amply clear that the press operators are highly skilled employees performing traditional tasks unique to their particular classification. They are required to be skilled in the setup of the press which involves the adjustment of colors on the four color presses, the alignment of images, the adjustment of paper tensions, and the control of paper speed, and must be prepared to perform minor maintenance on the machines. The record is clear that approximately three years is required properly to train a press operator, and pressmen who do not have three years of experience are considered trainees. Currently, there is one trainee working at the Employer's facility. Press operators work as a team with a jogger who is learning the craft skill on the job. The record discloses that press room employees have been hired with experience or are trained on the job by Hollis Shaffer, the third shift supervisor.

The press room is the only department with a "trainee" classification. In addition, no other classification of the Employer's employees has any particular training.

The mechanics in the maintenance department are hired with prior experience, and there is record evidence that the mechanics previously worked for an outside contractor with whom the Employer had a contract for press maintenance. When the contract terminated, the Employer hired the press mechanics who had previously been employed by the independent contractor. Janitors have little skill and no experience when hired, and the pallet maker saws boards and nails them together with an air powered nail gun. In the shipping and receiving department the material handlers either had outside experience or have learned on the job. Some of them have licenses which they obtained elsewhere. They operate forklifts in their work. The truck drivers obviously are licensed under the state and have chauffeurs' licenses.

The evidence adduced at the hearing includes a manual of some 70 pages of detailed and complex technical information on the operation and maintenance of the Employer's presses. There are no similar manuals or operational guides for the other departments.

The press operators, while not as highly paid as the head mechanic, are clearly among the highest paid employees.

Starting times of the various departments are staggered and correspond to the particular needs of the department. The press room operates on a fixed schedule of five, eight hour days; the press room employees may work fewer than five days per week depending on the volume of business. Composition employees have a varied and irregular schedule, and mechanics and certain

employees in the shipping and receiving department work only on the day shift. Other shipping and receiving employees work a three shift schedule, and there is always a janitor on duty around the clock.

The record discloses that press room employees are not permitted to use certain areas of the building because they are often covered with ink and there is a danger that they will damage carpeting in the office area. Consequently, they are restricted to certain areas and to certain locker room areas. Moreover, other employees are forbidden to enter the press area. Press room employees wear uniforms, in contrast to employees in other departments who may appear in mufti. The truck drivers wear uniforms which differ in color from those of press room employees.

The record does not reflect any significant employee interchange and the only interchange in the press room is on the jogger level as described above. Unskilled workers from other departments may substitute for the jogger when he is absent or on vacation.

Based on the above and the totality of the record, I am convinced that the unit of press room employees sought by the Petitioner constitutes an appropriate unit for the purposes of collective bargaining. The unit of press room employees constitutes a traditional lithographic unit in the printing industry, even though in this case, based on the particular facts, the pre-press employees have not been included.

I am not persuaded that the fact situation encountered in the instant case is analogous to the facts of cases cited by the Employer to support its contention that an appropriate unit herein must contain all of the production and maintenance employees.

For example, the pressmen in *Check Printers, Inc.*, 205 NLRB 33 (1973), were able to aquire the desired level of skill for press work in approximately two to three months. In contrast, the pressmen in the instant case undergo a three year training program, and those who have not completed the program are classified as trainees. In *Check Printers*, the Board found that the pressmen were involved in relatively simple and repetitive operations and that they were not the type of printing employees the Board has found to constitute an appropriate separate unit in a commercial printing establishment. In addition, the pressmen in *Check Printers* also performed other duties such as operating cutting machines located in the bindery department.

I do not find that *Texas Color Printers, Inc.*, 210 NLRB 30 (1974) is apposite to the fact situation herein. In *Texas Color*, the Board refused, in a commercial printing operation, to carve out a unit composed only of shipping and receiving employees. Clearly, the considerations involved in that determination have little bearing on whether the pressmen herein have a separate and distinct community of employment interests which would render a unit limited to them appropriate.

I believe that the facts in the instant case more closely parallel those in *Continental Web Press, Inc.*, 262 NLRB 1395 (1982) in which the Board found that the press room department employees shared a distinct community of interests. In that case they found that the pre-press or preparatory department employees did not share a community of employment interest. There, as in the instant case, the press room employees were found to have little contact with other employees, and there was virtually no transfer of employees between departments. In the instant case there is no significant interchange of

employees. Further, in that case, as in the present case, the press room employees had shift times different from the preparatory employees; and the press room employees, unlike the preparatory employees, wore uniforms and had access to different areas of the employer's facility.

Although the unit composition herein departs from the traditional unit which includes preparatory employees, the facts herein mandate such a departure. In *Moore Business Forms, Inc.*, 216 NLRB 833 (1975), a case involving a traditional lithographic unit, the pre-press or preliminary employees worked under common supervision with the press room employees on two of the three shifts. Furthermore, the pressmen's duties included cutting and correcting plates, which required frequent trips into the preliminary area. Preliminary employees were continually in the press area working on jobs, delivering plates and materials, and obtaining information for their work. Preliminary employees also performed specification checks and roll proofreading in the press area. The differences between the fact situation therein and that which confronts us here are obvious and striking.

Consequently, on the basis of the above and the record as a whole, I conclude that the press room employees herein possess a separate and distinct community of employment interests and that a unit composed exclusively of them constitutes a unit appropriate for purposes of collective bargaining. I shall direct an election in that unit.

As noted above the press room department includes the classification of pressman trainee. Currently, there is one employee so designated. Although neither party has taken a position with respect to the eligibility of this

employee, it is clear that after completing the three year training program the individual will become a press operator. Therefore, I have determined that this employee shares a community of employment interests with the other press room employees, and I shall include the trainee in the unit.

At the hearing the parties stipulated and I find that David Tremonti, vice president and operations manager; Gail Tremonti, treasurer; Scott Shaffer, pressroom supervisor; Frank Skwiera, plant superintendent; Lisa Bartkiewicz, computer operator; Joy Lajiness, receptionist; and David Allen, security guard, are ineligible to vote in the election.

(2)

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No. 93-892

In the Supreme Court of the United States

OCTOBER TERM, 1993

NTA GRAPHICS, INC., PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

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17 pp

QUESTION PRESENTED

Whether the National Labor Relations Board acted within its discretion when it concluded that petitioner's pressroom employees constitute an appropriate bargaining unit under Section 9(b) of the National Labor Relations Act, 29 U.S.C. 159(b).

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BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

OPINIONS BELOW

The decision of the court of appeals (Pet. App. A1-A4) is unreported, but the judgment is noted at 996 F.2d 1216 (Table). The decision of the National Labor Relations Board in the unfair labor practice proceeding (Pet. App. A5-A12) is noted at 307 N.L.R.B. No. 224 (1992). The Regional Director's decision and direction of election in the underlying representation proceeding (Pet. App. A15-A28), and the Board's order denying petitioner's request for review of that decision (Pet. App. A13-A14), are unreported.

JURISDICTION

The judgment of the court of appeals was entered on June 21, 1993. A petition for rehearing was denied on August 23, 1993. On November 15, 1993, Justice Stevens extended the time for filing a petition for a writ of certiorari to and including December 6, 1993, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. Petitioner produces newspaper advertising inserts at its high-volume lithographic printing facility in Toledo, Ohio. Pet. App. A2, A7. In June 1987, the Union[1] filed a representation petition with the National Labor Relations Board (Board) seeking (as later amended) to represent a bargaining unit of petitioner's approximately 40 pressroom employees. Gov't C.A. Br. 3; Pet. App. A15, A19. Petitioner objected to the unit proposed by the Union, urging instead that the bargaining unit should consist of all production and maintenance employees. *Id.* at A19.

In August 1987, after a hearing, the Board's Regional Director concluded that "the press room employees herein possess a separate and distinct community of employment interests and * * * a unit composed exclusively of them constitutes a unit appropriate for purposes of collective bargaining" under Section 9(b) of the National Labor Relations Act (Act), 29 U.S.C. 159(b).[2] Pet. App. A27; see also

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[1] Local 289, Graphic Communications International Union, AFL-CIO.

[2] Section 9(b) provides, in relevant part: "The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this

id. at A16. The Regional Director acknowledged that such a unit "departs from the traditional unit which includes preparatory employees" together with pressroom employees. *Id.* at A27. The Regional Director determined, however, that "the facts herein mandate such a departure." *Ibid.*

The Director found that petitioner's company is divided into five departments, each of which is staffed by employees within specific job classifications. The pressroom department consists of press operators, a pressman trainee, and "joggers"[3]; the pre-press department consists of cameramen, strippers, and platemakers; the composition department consists of a typesetter/layout employee and a dispatch/layout employee; the shipping and receiving department is manned by drivers and material handlers; and the maintenance department includes press mechanics, janitors, and an individual who constructs wooden pallets. Pet. App. A20-A21. Each department is located within a separate, well-defined area of the plant, and the pressroom is segregated from the rest of the facility by brick walls. *Id.* at A20.

Customers provide petitioner with a model of the advertising insert to be produced, which either specifies, or already has in place, the necessary art work and typesetting. Petitioner then sends the model to the composition department, where a "job ticket[]" is created that instructs other departments

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[Act], the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof."

[3] A "jogger" conveys the printed product from the presses to pallets located in the pressroom, and cleans in and around the presses. Pet. App. A22.

respecting the requirements of the particular assignment, such as the number of copies and the size of the paper. Pet. App. A19-A20, A21. After consulting with the pre-press department about color and printing configurations, the composition department attaches the job ticket to the model and sends it to the cameramen in the pre-press department; a platemaker in the pre-press department makes a plate of the model which, along with the job ticket, is forwarded to the pressroom. *Id.* at A20, A21. The pressroom employees set up and run the presses and produce the copy. *Id.* at A23. Finally, the printed advertising copy is distributed to the customer by the shipping and receiving department in accordance with instructions on the job ticket. *Id.* at A20.

Petitioner's pressroom employees have and exercise job skills that are distinct from those of employees in other departments. Pet. App. A23. The press operators are highly skilled employees who perform traditional tasks unique to their job classification—they are responsible for setting up and performing minor maintenance on the presses, adjusting colors and paper tensions, aligning images, and controlling paper speed. *Ibid.* Approximately three years of training are required prior to becoming a press operator; petitioner treats operators with less experience as trainees, and the pressroom is the only department with a "trainee" classification. *Id.* at A23-A24. Petitioner maintains a manual of detailed technical information respecting the operation and maintenance of the presses, and the pressroom is the only department for which there is such a manual. *Id.* at A24.

Petitioner's pressroom employees have little contact with employees in other departments. Pet. App. A21-A22. Composition employees "have virtually no day-to-day contact with press employees"; their job tickets are forwarded with the work. *Id.* at A21. Contact between the pressroom and the pre-press department consists of the submission of plates by the platemaker to the pressroom. *Ibid.* Apart from brief visits by material handlers who deliver paper rolls and remove finished work, the pressroom has no contact with the shipping and receiving department, and, similarly, contact between the pressroom and maintenance department employees is brief and infrequent. *Id.* at A21-A22. In fact, pressroom employees are not permitted to enter certain areas of the plant, including the pre-press area, because they are often covered in ink; and other employees are forbidden to enter the press area. Gov't C.A. Br. 14-15; Pet. App. A25. With a minor exception, non-pressroom employees do not interchange job functions with pressroom employees. *Id.* at A25.[4]

The pressroom employees have supervision separate from that of other departments; there is no common supervision of departments except at the highest levels of management, which is not significant on a day-to-day basis. Pet. App. A22-A23. Employees in different departments have separate work schedules, with starting times staggered to correspond to the particular needs of each department, and

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[4] The minor exception occurs approximately four times per year, when petitioner temporarily assigns the maintenance department's pallet maker or another unskilled worker to fill in for the jogger who is absent or on vacation. Pet. App. A22, A25.

press operators are among petitioner's highest-paid employees. *Id.* at A24-A25.

Based on these findings and the record as a whole, the Regional Director determined that this case was not a traditional case such as *Moore Business Forms, Inc.*, 216 N.L.R.B. 833 (1975). The Director discussed the different facts which led the Board in *Moore* to approve a bargaining unit that contained both "preliminary" and pressroom employees.[5] The Director concluded that "[t]he differences between the fact situation therein and that which confronts us here are obvious and striking." Pet. App. A27. Accordingly, the Regional Director ordered an election in the unit consisting of petitioner's pressroom employees. *Id.* at A16-A17.

2. Petitioner filed a request for review of the Regional Director's decision with the Board. The Board denied petitioner's request, concluding that "the facts here warrant a departure from the traditional unit of lithographic production employees as there is insufficient evidence of cohesiveness between the preparatory employees and pressroom employees to warrant a broader unit." Pet. App. A13.[6] The

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[5] In *Moore Business Forms, Inc.*, preliminary and pressroom employees worked under common supervision; the press operators' duties included cutting and correcting plates, requiring frequent trips to the pre-press area; and pre-press employees were continually in the pressroom working on jobs and obtaining information for their work. Pet. App. A27; 216 N.L.R.B. at 834.

[6] Board Member Stephens would have granted petitioner's request for review "in order to read the record and determine the applicability of *Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087 (7th Cir. 1984)." Pet. App. A14.

Union won the representation election and was certified by the Board as the collective-bargaining representative of the employees in the unit. *Id.* at A7. Petitioner refused to bargain with the Union, however, and the NLRB General Counsel issued a complaint and notice of hearing alleging that petitioner had violated Section 8(a)(5) and (1) of the Act. *Id.* at A8. The Board granted the General Counsel's motion for summary judgment based on its finding that petitioner's refusal to bargain constituted an unfair labor practice in violation of Section 8(a)(5) and (1) of the Act, 29 U.S.C. 158(a)(5) and (1), and entered an appropriate order. Pet. App. A6-A10.

3. The court of appeals enforced the Board's order in an unpublished opinion. Pet. App. A1-A4. The court concluded that the Board had not abused its discretion in deeming petitioner's pressroom employees an appropriate bargaining unit, because "[t]he record supports a finding of differences in working conditions sufficient to support a conclusion that the pressmen at the [c]ompany enjoy a distinct community of interests." *Id.* at A3. The court concluded that, based on all the facts in the case, there was "a sufficient 'community of interests' that justifies the choice of bargaining unit in this case." *Id.* at A4.

ARGUMENT

1. The court of appeals correctly found that the Board did not abuse its discretion in approving the bargaining unit of pressroom employees on the facts of this case. See Pet. App. A3-A4. The court of appeals, the Board, and the Regional Director explained the circumstances that support the determination of the bargaining unit. It is well settled that,

under Section 9(b) of the Act, "the selection of an appropriate bargaining unit lies largely within the discretion of the Board, whose decision, 'if not final, is rarely to be disturbed.'" *South Prairie Construction Co.* v. *Local 627, Int'l Union of Operating Engineers*, 425 U.S. 800, 805 (1976) (quoting *Packard Motor Co.* v. *NLRB*, 330 U.S. 485, 491 (1947)). The Board's broad discretion in unit determinations "reflect[s] Congress' recognition 'of the need for flexibility in shaping the [bargaining] unit to the particular case.'" *NLRB* v. *Action Automotive, Inc.*, 469 U.S. 490, 494 (1985) (quoting *NLRB* v. *Hearst Publications, Inc.*, 322 U.S. 111, 134 (1944)).[7] In defining bargaining units, the Board considers whether the group of employees at issue shares a "community of interest" apart from other employees, for "[a] cohesive unit—one relatively free of conflicts of interest—serves the Act's purpose of effective collective bargaining, and prevents a minority interest group from being submerged in an overly large unit." *Action Automotive, Inc.*, 469 U.S. at 494 (citations omitted). A variety of factors are relevant to that determination, including: "a difference in method of wages or compensation; different hours of work; different employment benefits; separate supervision; the degree of dissimilar qualifications, training and skills; differences in job functions * * *; infrequency or lack of contact with other employees; lack of integration with the work

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[7] Moreover, the Board need not determine "the *only* appropriate unit, or the *ultimate* unit, or the *most* appropriate unit; the Act requires only that the unit be 'appropriate.'" *Morand Bros. Beverage Co.*, 91 N.L.R.B. 409, 418 (1950), enforced, 190 F.2d 576 (7th Cir. 1951); accord *NLRB* v. *Fuelgas Co.*, 674 F.2d 529, 530 (6th Cir. 1982).

functions of other employees or interchange with them; and the history of bargaining." *Kalamazoo Paper Box Corp.*, 136 N.L.R.B. 134, 137-138 (1962); accord *NLRB* v. *American Seaway Foods, Inc.*, 702 F.2d 630, 633-634 (6th Cir. 1983).

Applying this test, the Regional Director concluded that, although pressroom and preparatory employees are generally deemed a "traditional unit" in a lithographic business, on the facts presented in this case, petitioner's pressroom employees, by themselves, constitute an appropriate bargaining unit because they share a community of interest separate and distinct from those of petitioner's other employees, including the preparatory employees. Pet. App. A27. As the Regional Director found, the pressroom employees have little day-to-day contact with employees in petitioner's other departments, are separately supervised, possess significantly greater training and skills, and do not interchange job functions with other employees. *Id.* at A21, A22-A23, A24-A25. The Board agreed that, on these facts, a departure from the traditional unit of lithographic production employees was justified, *id.* at A13, and the court of appeals correctly held that the Board did not abuse its discretion by so concluding. *Id.* at A3.

Contrary to petitioner's contention (Pet. 13-18), the Board's failure to include preparatory employees in the bargaining unit does not constitute an unexplained departure from a holding that bargaining units in the printing industry "must include at least those preparatory and press employees involved in the lithographic production process." Pet. 13. When the Board adopts a presumption governing bargaining unit determinations in a particular industry, it does

so explicitly. See, *e.g.*, *Haag Drug Co.*, 169 N.L.R.B. 877, 878 (1968) (rebuttable presumption that a single-store unit is appropriate in retail chain operations). The Board has not adopted such a rule for the printing or lithographic industry; rather, the Board's "traditional" practice of placing preparatory and pressroom employees in the same unit is based upon its experience that, in that industry, these employees generally have tended, as a factual matter, to share a community of interest. Where the facts in a given case demonstrate a different alignment of interests among employees, however, the Board appropriately tailors the unit to reflect that difference. See, *e.g.*, *Meredith Publishing Co.*, 140 N.L.R.B. 509, 511 (1963) (excluding paste-up employees from pressmen and preparatory unit because even though the paste-up employees clearly performed preparatory work, they were not part of the pressroom operations); cf. *NLRB* v. *American Printers & Lithographers*, 820 F.2d 878 (7th Cir. 1987) (approving addition of pressroom floor helpers of one employer to multi-employer pressroom unit and holding that other general pressroom employees could be added later if appropriate on an employer-by-employer basis).

The case quoted by petitioner (Pet. 13-14) did not hold that a bargaining unit including pressmen "must" also include preparatory employees. Rather, the court of appeals in *Continental Web Press, Inc.* v. *NLRB*, 742 F.2d 1087, 1092 (7th Cir. 1984), held that the Board had not provided sufficient explanation for why it did not include preparatory workers in the unit in light of the fact that traditionally they had been included. In discussing the inadequate explanation by the Board, the court also emphasized the fact that the

Regional Director in that case "had gone so far as to say that the Board has a long-established policy of recognizing pressmen as a separate unit." *Id.* at 1093. The court of appeals found that the longstanding policy was to the contrary and it remanded the case to the Board to explain its ruling. The court of appeals made clear that the Board could still reach the same conclusion on remand that the pressmen alone constituted an appropriate bargaining unit, but ordered that this time the Board had to "explain[] why." *Id.* at 1095.

The court of appeals below had no such trouble with the determination by the Board and the Regional Director in this case. The Regional Director expressly recognized that the "unit composition herein departs from the traditional unit," and he provided ample explanation to justify the departure. See Pet. App. A19-A27. The Board also acknowledged that the unit was a departure from the traditional unit, but it found the departure warranted. *Id.* at A13. This fact-bound determination does not merit review by this Court.

2. Petitioner contends (Pet. 19-26) that the decision below conflicts with the decision of the Seventh Circuit in *Continental Web Press, Inc.* v. *NLRB*, *supra*, because that court refused to countenance the Board's departure from the traditional lithographic production unit of preparatory and pressroom employees.[8] As explained above, however, the Seventh

---

[8] Petitioner also asserts in passing (Pet. 19) that the Board's factual findings were "generally erroneous." Petitioner does not, however, urge this evidentiary issue as a separate basis for review by this Court, nor does it identify any record evidence even to suggest that the Board's findings were not supported

Circuit did not establish a per se rule as to how a bargaining unit in the printing industry must be defined. Moreover, under the Seventh Circuit's view, the Board was justified in finding that the pressroom employees here enjoyed a separate community of interest from the preparatory employees based on the record in this case.

In *Continental Web Press*, the Seventh Circuit observed that "[t]he greatest conflicts of interest among workers are over wages, fringe benefits, and working conditions." 742 F.2d at 1091. The court there concluded that "there do not seem to be any significant differences between the preparatory employees and the pressmen in [the company's] plant along any of these dimensions," and criticized the Board for breaking up this "homogeneous work force into separate units." *Ibid.* By contrast, in the instant case, the Board and the court of appeals found that there are significant differences between the pressroom employees and petitioner's other employees regarding these very factors.

The court of appeals upheld the Board's determination that there was a "difference in skills and working conditions," citing specifically the fact that the pressmen remain "trainees" until they have three years' experience, unlike the employees in all the other departments who do not go through a training period. The court of appeals found evidence of lack of "functional integration" due to the fact that the

---

by substantial evidence. In any event, this case does not constitute "the rare instance when the standard appears to have been misapprehended or grossly misapplied," and therefore review by this Court is not warranted. *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474, 490-491 (1951).

pressroom employees work in an area that is physically separated from the other employees at petitioner's plant. Pet. App. A3. The court pointed to the lack of significant interchange or transfer with employees of other departments at the company. The court of appeals also emphasized the fact that the pressroom employees "have separate supervision, may work a different schedule, wear distinctive uniforms, and are paid on a different scale." *Id.* at A4. These findings reveal that the Board's determination, upheld by the court of appeals, was properly based on significant differences between the pressroom and preparatory employees in petitioner's company that could create conflicts of interest in matters germane to collective bargaining. Further review of this intensely factual determination is not warranted.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

DREW S. DAYS, III
Solicitor General

DANIEL SILVERMAN
Acting General Counsel

LINDA SHER
Acting Associate General Counsel

NORTON J. COME
Deputy Associate General Counsel

JOHN EMAD ARBAB
Attorney
National Labor Relations Board

FEBRUARY 1994

Supreme Court, U.S.
FILED
APR 29 1994
OFFICE OF THE CLERK

No. 93-892

In The

Supreme Court of the United States

October Term, 1993

NTA GRAPHICS, INC.,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

JOINT APPENDIX
VOLUME I

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Petition For Certiorari Filed December 6, 1993
Certiorari Granted February 28, 1994

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

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General Docket
Sixth Circuit Court of Appeals

92-6085 **92-6085**

Court of Appeals Docket #: 92-6085 Filed: 8/25/92
Nsuit: 0
NLRB v. NTA Graphics Inc

Appeal from: National Labor Relations Board

Case type information:
1) NLRB
2) enforcement
3)

Lower court information:

District: 0647-7 : 8-CA-24277
Date Filed: **/**/**
Date order/judgment: 7/24/92
Date NOA filed: **/**/**

Fee status: waived

Prior cases:
None
Current cases:

Lead	Member	Start	End
Related:			
92- 5083	92- 6085	4/2/93	8/24/93

NATIONAL LABOR RELATIONS BOARD Petitioner	Frederick Calatrello, Director 216-522-3715 Room 1695 [NTC gvt] National Labor Relations Board Region 8 1240 E. Ninth Street Suite 1695 Anthony J. Celebrezze Federal Building Cleveland, OH 44199
	Aileen A. Armstrong, Dep.Asso.Gen.Counsel 202-273-2960 [COR NTC gvt] Charles P. Donnelly, Jr. 202-273-2986 [NTC gvt] William M. Bernstein 202-273-2986 [COR NTC gvt] National Labor Relations Board Appellate Court Branch 1099 14th Street, N.W. Washington, DC 20570
v.	
NTA GRAPHICS, INC. Respondent	Timothy C. McCarthy 419-241-9000 [NTC ret] Shumaker, Loop & Kendrick 1000 Jackson Street North Courthouse Square Toledo, OH 43624-1573

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

NTA GRAPHICS, INC.

Respondent

8/25/92	NLRB Case Docketed. Application for Enforcement of an Order of the NLRB filed by Petitioner NLRB. (certificate of service 8/24/92) • (mcp)
8/31/92	APPEARANCE filed by Attorney Aileen A. Armstrong for Petitioner NLRB [92-6085] (ds)
9/2/92	APPEARANCE filed by Attorney William M. Bernstein for Petitioner NLRB [92-6085] (ds)
9/2/92	CERTIFIED LIST filed. [92-6085] (pje)
9/2/92	ADMINISTRATIVE RECORD filed. Volumes included: 3 Pl (w/ex). [92-6085] (pje)
9/2/92	Petitioner MOTION filed to consolidate for submission the following cases: 92-5083/6085. Motion filed by Aileen A. Armstrong for Petitioner NLRB. Certificate of service date 9/1/92. [92-6085] (yh)
9/8/92	PRE-ARGUMENT STATEMENT filed by William M. Bernstein for Petitioner NLRB [92-6085] (ds)
9/14/92	APPEARANCE filed by Attorney Timothy C. McCarthy for Respondent NTA Graphics Inc [92-6085] (ac)

9/14/92	Response to application for enforcement filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Certificate of Service date 9/11/92. [92-6085] (ac)
10/7/92	MOTION filed for leave to file motion to intervene out of time. [658235-1] Motion filed by Steven M. Wolock for Graphic Comm. Certificate of service date 10/6/92. [92-6085] (ac)
10/7/92	MOTION filed to allow Graphic Communications to intervene on behalf of NLRB. Motion filed by Steven M. Wolock for Graphic Comm. Certificate of service date 10/6/92. [92-6085] (ac)
10/23/92	RULING denying motion to consolidate for submission [643721-1] filed by Aileen A. Armstrong [92-6085]. (yh)
11/24/92	BRIEFING LETTER SENT setting cross appeal briefing schedule: first brief due 1/6/93; second brief due 2/8/93; reply brief due 2/25/93; appendix due 3/4/93 [92-6085]. Rule 9 Notice Sent: y. (yh)
1/6/93	BRIEF filed by Timothy C. McCarthy for Respondent NTA Graphics Inc Copies: 10. Certificate of Service date 1/5/93 [92-6085] • (teb)
1/6/93	Request relating to oral argument not filed by Timothy C. McCarthy for Respondent NTA Graphics Inc [92-6085] (teb)
1/26/93	Petitioner MOTION filed to extend time to 2/22 to file brief. Motion filed by Aileen A. Armstrong for Petitioner NLRB. Certificate of service date 1/24/93. [92-6085] (ac)

1/26/93	RULING granting motion to extend briefing [712846-1] filed by Aileen A. Armstrong [92-6085] (ac)
1/26/93	BRIEFING LETTER SENT resetting cross appeal briefing schedule: second brief due 2/22/93; fourth brief due 3/8/93; appendix due 3/15/93 [92-6085] Rule 9 Notice Sent: n. (ac)
2/24/93	BRIEF filed by William M. Bernstein for Petitioner NLRB Copies: 10. Certificate of Service date 2/22/93 [92-6085] • (teb)
2/24/93	Request relating to oral argument not filed by William M. Bernstein for Petitioner NLRB [92-6085] (teb)
3/8/93	Respondent MOTION filed to extend time to 3/17 to file brief. Motion filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Certificate of service date 3/5/93. (ac)
3/9/93	RULING granting motion to extend briefing [733069-1] filed by Timothy C. McCarthy [92-6085] (ac)
3/9/93	BRIEFING LETTER SENT resetting cross appeal briefing schedule: fourth brief due 3/17/93; Rule 9 Notice Sent: n. (ac)
3/15/93	Respondent MOTION filed to extend time to 3/25 to file appendix. Motion filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Certificate of service date 3/12/93. [92-6085] (ac)
3/16/93	RULING granting motion to extend time to file appendix [736838-1] filed by Timothy C. McCarthy [92-6085] (ac)

3/16/93 BRIEFING LETTER SENT resetting cross appeal briefing schedule: appendix due 3/25/93 [92-6085] Rule 9 Notice Sent: n. (ac)

3/19/93 BRIEF filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Copies: 10. Certificate of service date 3/17/93 [92-6085] (teb)

3/25/93 APPENDIX filed by Timothy C. McCarthy for Respondent. Copies: 5 [2 vols] (prepared by Becker/Gallagher). Certificate of service date 3/25/93 [92-6085] (pje)

4/2/93 ADMINISTRATIVE SUPPLEMENTAL RECORD filed. Volumes included: 1 Pl; 1 Tr; 1 Ex. (This record was applied to 92-5083 on 9/2/92. The board's certified list indicated that part of the record would be found in 92-5083) [92-6085] (mcp)

6/17/93 CAUSE SUBMITTED on briefs under Sixth Circuit Rule 9(a) before Judges Merritt, Guy, Batchelder. [92-6085] (cb)

6/21/93 ORDER filed: Application for enforcement of the order issued by the National Labor Relations Board is GRANTED, pursuant to local rule 9(b)3, decision not for publication pursuant to local rule 24 [92-6085]. Gilbert S. Merritt, Chief Judge, Ralph B. Guy, Circuit Judge, Alice M. Batchelder, Circuit Judge. (cb)

6/28/93 BILL OF COST filed by Aileen A. Armstrong for Petitioner NLRB. Amount: $126.00. Certificate of service date 6/25/93. [92-6085] (cb)

7/12/93	Respondent MOTION filed to file en banc rehearing petition instanter. Motion filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Certificate of service date 7/11/93. [92-6085] (pe)
7/12/93	Respondent MOTION filed to stay mandate. Motion filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Certificate of service date 7/11/93. [92-6085] (pe)
7/12/93	TENDERED: rehearing en banc petition from Timothy C. McCarthy for Respondent NTA Graphics Inc [92-6085] (pe)
7/21/93	ORDER filed granting motion to file rehearing en banc petition instanter and granting motion to stay mandate filed by Timothy C. McCarthy [92-6085]. (pe)
7/21/93	PETITION for en banc rehearing filed by Timothy C. McCarthy for Respondent NTA Graphics Inc. Certificate of service date 7/11/93. [92-6085] (pe)
7/21/93	RESPONSE in opposition filed regarding a motion to stay mandate [797910-1] Response from Aileen A. Armstrong for Petitioner NLRB. Certificate of service date 7/20/93. Received after ruling on motion. [92-6085] (ac)
8/23/93	ORDER filed denying petition for en banc rehearing filed by Timothy C. McCarthy [92-6085]. Gilbert S. Merritt, Chief Judge, Ralph B. Guy, Alice M. Batchelder, Circuit Judges. (pe)
9/1/93	MANDATE ISSUED with costs to be recovered by Petitioner NLRB. Amount: $126.00. [92-6085] (ds)

9/13/93	ORDER filed to recall mandate. (inadvertently issued) [92-6085]. (cb)
9/13/93	LETTER SENT TO NLRB by cb sending a certified copy of order filed 9/13/93. [92-6085] (cb)
9/20/93	CERTIFIED RECORD RETURNED to lower court at the end of appellate proceedings. [92-5083, 92-6085]. Volumes include: 4 Pl; (3 w/exhibits); 1 Tr; 1 Ex;. (tt)
11/18/93	U.S. Supreme Court letter filed granting an extension of time until 12/6/93 to file a petition for writ of certiorari. [92-6085] (yh)
12/10/93	U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Respondent NTA Graphics Inc. Filed in the Supreme Court on 12/06/93. Supreme Ct. case number: 93-892. [92-6085] (swh)
3/2/94	U.S. Supreme Court order filed granting petition for writ of certiorari [872025-1] filed by NTA Graphics Inc [92-6085]. Filed in the Supreme Court on 02/28/94. (swh)

Form NLRB-502
(11-64)

Form Exempt Under
44 U.S.C. 3512

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

PETITION

DO NOT WRITE IN THIS SPACE

CASE NO.
8-RC-13648

DATE FILED
6-12-87

INSTRUCTIONS – Submit an original and four (4) copies of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

If more space is required for any one item, attach additional sheets,numbering item accordingly.

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

---

1. Purpose of this Petition *(If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.)*

(Check one)

[X] RC-CERTIFICATION OF REPRESENTATIVE – A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.

[ ] RM-REPRESENTATION (EMPLOYER PETITION) – One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.

[ ] RD-DECERTIFICATION – A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.

[ ] UD-WITHDRAWAL OF UNION SHOP AUTHORITY – Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.

[ ] UC-UNIT CLARIFICATION – A labor organization is currently recognized by employer, but petitioner seeks clarification of placement of certain employees:

(Check one) [ ] In unit not previously certified

[ ] In unit previously certified in Case No. _____.

[ ] AC-AMENDMENT OF CERTIFICATION – Petitioner seeks amendment of certification issued in Case No. _____.

Attach statement describing the specific amendment sought.

2. NAME OF EMPLOYER
NTA Graphics, Inc.

EMPLOYER REPRESENTATIVE TO CONTACT
David Tremonti

PHONE NO
(419) 476-8808

---

3. ADDRESS(ES) OF ESTABLISHMENT(S) INVOLVED *(Street and number, city, State, and ZIP Code)*
5225 Telegraph Road, Toledo, Ohio 43612

4a. TYPE OF ESTABLISHMENT *(Factory, mine, wholesaler, etc.)*
Printing shop

4b. IDENTIFY PRINCIPAL PRODUCT OR SERVICE
Printed materials

---

5. Unit Involved *(In UC petition, describe PRESENT bargaining unit and attach description of proposed clarification.)*

Included ALL PREPARATORY DEPARTMENT AND PRESS DEPARTMENT EMPLOYEES.

Excluded GUARDS, SUPERVISORS, AND ALL OTHER EMPLOYEES INCLUDING TRUCK DRIVERS, CLERICAL EMPLOYEES AND MAINTENANCE EMPLOYEES.

(If you have checked box RC in 1 above, check and complete EITHER item "a or "b. whichever is applicable)

6a. NUMBER OF EMPLOYEES IN UNIT:

PRESENT approx. 45

PROPOSED (BY UC/AC)

6b. IS THIS PETITION SUPPORTED BY 30% OR MORE OF THE EMPLOYEES IN THE UNIT?*

[X] YES [ ] NO

**Not applicable in RM, UC, and AC*

7a. [XX] Request for recognition as Bargaining Representative was made on by letter dated 6/11/87 and Employer
(Month, day, year)

declined recognition on or about no reply *(If no reply received, so state)*
(Month, day, year)

7b. [ ] Petition is currently recognized as Bargaining Representative and desires certification under the act.

---

8. Recognized or Certified Bargaining Agent *(If there is none, so state)*

NAME
None

AFFILIATION
ADDRESS
DATE OF RECOGNITION OR CERTIFICATION

9. DATE OF EXPIRATION OF CURRENT CONTRACT, IF ANY *(Show month, day, and year)*

---

10. IF YOU HAVE CHECKED BOX UD IN 1 ABOVE, SHOW HERE THE DATE OF EXECUTION OF AGREEMENT GRANTING UNION SHOP *(Month, day, and year)*

11a. IS THERE NOW A STRIKE OR PICKETING AT THE EMPLOYER'S ESTABLISHMENT(S) INVOLVED?

YES _____ NO X

11b. IF SO, APPROXIMATELY HOW MANY EMPLOYEES ARE PARTICIPATING?

11c. THE EMPLOYER HAS BEEN PICKETED BY OR ON BEHALF OF _____
(Insert name)

ORGANIZATION, OF _____ SINCE _____
(Insert address) *(Month, day, year)*

---

12. ORGANIZATIONS OR INDIVIDUALS OTHER THAN PETITIONER (AND OTHER THAN THOSE NAMED IN ITEMS 8 AND 11c; WHICH HAVE CLAIMED RECOGNITION AS REPRESENTATIVES AND OTHER ORGANIZATIONS AND INDIVIDUALS KNOWN TO HAVE A REPRESENTATIVE INTEREST IN ANY EMPLOYEES IN THE UNIT DESCRIBED IN ITEM 5 ABOVE. (IF NONE, SO STATE.)

NAME AFFILIATION

ADDRESS DATE OF CLAIM *(Required only if Petition is filed by Employer)*

I declare that I have read the above petition and that the statements therein are true to the best of my knowledge and belief.

Graphic Communications International Union, Detroit-Toledo Local 289 1111 Woodward Avenue, Suite 100, Royal Oak, MI 48067

(Petitioner and affiliation, if any)

By /s/ Samuel C. McKnight Attorney
(Signature of representative or person filing petition) *(Title, if any)*
Samuel C. McKnight

Address 26211 Central Park Blvd., Suite 614 Soutfield, MI 48076 (313) 354-9650
(Street and number, city, State, and ZIP Code) *(Telephone number)*

WILLFULLY FALSE STATEMENT ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

COPY

OFFICIAL REPORT OF PROCEEDINGS
before the
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

NTA GRAPHICS INCORPORATED

Case No: 8-RC-13648

Pages: 1 through 189

Place: Toledo, Ohio **Volume:** I

Date: July 9, 1987

LORD REPORTING SERVICE, INC.
OFFICIAL REPORTERS
5300 East Main Street
Suite 101
Columbus, Ohio 43213
(614) 861-3697

[p. 1] BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 8

In the Matter of:

NTA GRAPHICS, INCORPORATED,	)	
Employer,	)	CASE NO. 8-RC-13648
-and-	)	
GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT, TOLEDO/LANSING LOCAL 289,	)	
Petitioner.	)	

Conference Room 318
Federal Office Building
234 Summit Street
Toledo, Ohio

Thursday,

July 9, 1987

The above-entitled matter came on for hearing, pursuant to Notice, at 10:00 a.m.

BEFORE:

RICHARD F. BOGUSKI
Hearing Officer

[p. 2] APPEARANCES:

On behalf of the Employer:

TIMOTHY C. McCARTHY, ESQ.
Shumaker, Loop & Kendrick
North Courthouse Square
1000 Jackson
Toledo, Ohio 43624-1573

On behalf of the Petitioner:

ROGER J. McCLOW, ESQ.
Klimist, McKnight, Sale & McClow, P.C.
Suite 614
26211 Central Park Blvd.
Southfield, Michigan 48076-4139

[p. 3] INDEX

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David Tremonti	15	56	153	159
			172	168
Joseph Freeze	174	177	178	179
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EXHIBITS

EXHIBIT NO.	FOR IDENTIFICATION	IN EVIDENCE
Board's Exhibits:		
No. 1(a) through 1(d)	5	6
No. 2	6	7
No. 3	9	9
Petitioner's Exhibits:		
No. 1	79	89
Employer's Exhibits:		
No. 1	20	90
No. 2	51	90
Joint Exhibit:		
No. 1	30	91

[p. 4] PROCEEDINGS

10:58 a.m.

HEARING OFFICER: The hearing will be in order. This is a formal hearing in the matter of NTA Graphics, Incorporated - Incorporated spelled out - , Case No. 8-RC-13648

The Hearing Officer appearing for the National Labor Relations Board is Richard F. Boguski, that's B-o-g-u-s-k-i.

All parties have been informed of the procedures at formal hearing before the Board by service of a Statement of Standard Procedures with a Notice of Hearing. I have additional copies of this statement for distribution if any party wishes more.

Will counsel please state their appearances for the record? For the Petitioner?

MR. McCLOW: For the record, my name is Roger McClow of the firm of Klimist, McKnight, Sale & McClow, appearing here in behalf of Local 289.

HEARING OFFICER: For the Employer?

MR. McCARTHY: Timothy C. McCarthy of the law firm of Shumaker, Loop & Kendrick, appearing here today on behalf of the Employer in this case, NTA Graphics, Incorporated.

HEARING OFFICER: For the record, there is [p. 5] no intervenor involved in this matter. Moreover, there are no other appearances submitted in this particular proceeding.

Okay. are there any other persons, parties or labor organizations in the hearing room at this time who claim an interest in this proceeding?

Let the record show no response.

I now propose to receive the formal papers.

(The documents above-referred to were marked board Exhibits Nos. 1(a) through 1(d) for identification.)

HEARING OFFICER: They have been marked for identification as Board Exhibits 1(a) through 1(d), 1(d) being an index and description of the entire exhibit. This exhibit has already been shown to all parties.

Are there any objections?

MR. McCARTHY: None.

MR. McCLOW: None.

HEARING OFFICER: Hearing no objections, the formal papers are received into evidence.

[p. 6] (The documents above-referred to, heretofore marked Board Exhibits Nos. 1(a) through 1(d) for identification, were received in evidence.)

HEARING OFFICER: At this time I would also propose entering into evidence as Board Exhibit No. 2 a document which is entitled "Stipulation." It was prepared prior to the start of this hearing, setting forth various stipulations agreed to by the parties. Both parties have signed in title the exhibit in the appropriate space and initialed the exhibit where requested.

(The document above-referred to was marked Board Exhibit No. 2 for identification.)

HEARING OFFICER: Is there any objection to admitting the stipulation document into evidence as Board Exhibit No. 2?

MR. McCLOW: No.

MR. McCARTHY: No.

HEARING OFFICER: Hearing no objection, the stipulation document is received into evidence as Board Exhibit No. 2.

[p. 7] (The document above-referred to, heretofore marked Board Exhibit No. 2 for identification, was received in evidence.)

HEARING OFFICER: Okay. Before I get into the issues of the matter, I just want to make known for the record that there is a pending unfair labor practice filed in Case No. 8-CA-20167 based upon the Charge Against Employer Form which I have in front of me. The charge was filed on or about June 12, 1987. The charge alleges that approximately 16 – excuse me.

The charge alleges approximately 17 employees had been terminated in violation of Section 8(A) 1 and 3 of the Act. That matter is presently – or that charge is presently pending investigation. It's my understanding as of this date the director has not made any official determination on that matter.

It's also my understanding that with respect to that charge the Union has requested Section 10(J) injunctive relief.

Now, in the discussions we had prior to the opening of this record, it is the understanding of the parties that should the Regional Director determine that the 8(A)3 allegations raised in that charge are meritorious, the employees involved would be permitted [p. 8] to vote subject to challenge.

It's also the understanding of the parties, at least to my knowledge it is, that should the Director determine

that the charge lacks merit the affected employees may also vote subject to challenge pending any recourse to the Board's appeal procedure.

Is that a correct understanding on the part of the parties? Mr. McClow?

MR. McCLOW: Yes, it is.

HEARING OFFICER: Mr. McCarthy?

MR. McCARTHY: It's my understanding that if at the time the election is held the appeals are still pending.

HEARING OFFICER: Right.

MR. McCARTHY: Yes, there is a possible contingency if the Regional Director refused to issue the General Counsel might decide before an election is held. In that point we would be saying they could vote subject to –

HEARING OFFICER: Yes. With that understanding. I think it's the understanding of everybody.

But then again, like I say, the reason why I'm bringing this up at this time, I do not want to litigate in an R case proceeding an unfair labor [p. 9] practice matter and – however, I do wish to let the reader of this record know that there is a pending unfair labor practice charge.

I do have a copy of the charge. Just for the completeness of the record purposes, I'd like to admit it into evidence as Board Exhibit No. 3.

(The document above-referred to was marked Board Exhibit No. 3 for identification.)

HEARING OFFICER: Would anybody have any objection to that?

Okay. Hearing no objection, the Charge Against Employer Form for Case No. 8-CA-20167 is submitted into evidence as Board Exhibit No. 3.

(The document above-referred to, heretofore marked Board Exhibit No. 3 for identification was received in evidence.)

HEARING OFFICER: Very well, What I'd like to do now is discuss what is at issue at this hearing.

Now, it is my understanding at this particular point in the hearing that the Union is seeking to represent employees and employed in a collective bargaining unit as follows:

The unit that they are seeking to represent [p. 10] is all preparatory and press department employees employed by the Employer at its 5225 Telegraph Road, Toledo, Ohio, Facility, excluding all office clerical employees, maintenance department employees, composition department employees, and all shipping and receiving department employees, including truck drivers and all professional employees, guards and supervisors as defined in the Act.

Mr. McClow, is that a correct description of the unit that the Union is seeking at this time?

MR. McCLOW: Yes, it is.

HEARING OFFICER: Okay. For the record, let the record show that any minor variance or discrepancy between the way the petition – this unit description reads

in the petition as opposed to what I have just read should be amended to reflect what I have just read.

Now, by the same token, it's my understanding that the Union – I'm sorry, that the Employer contends that the unit description as I just read and is being sought by the petitioning Union is inappropriate, in that they think the appropriate unit that should be directed in this matter should read as follows:

All preparatory, press, maintenance, [p. 11] composition, and shipping and receiving department employees employed by the Employer at its 5225 Telegraph Road, Toledo, Ohio facility, excluding all office clerical employees and all professional employees, guards and supervisors, as defined in the Act.

Is that a correct description of the unit you think is appropriate, Mr. McCarthy?

MR. McCARTHY: Yes, With the additional understanding, I think that both parties share, that a gentleman in the department noted as the pallets department, that that department is actually a subdepartment or division, if you will, of the maintenance department. I don't think there's any dispute –

HEARING OFFICER: Okay. So everybody knows that the fellow who does the pallet work is part of the maintenance department and is included in the maintenance group of employees involved here, correct?

MR. McCARTHY: Correct.

MR. McCLOW: Included, yes, included in the unit that the Employer wants and excluded from the unit that the Union wants.

HEARING OFFICER: Correct. Yes. The employer feels maintenance should be included, and the [p. 12] Union feels they don't want to represent, meaning they didn't petition for maintenance and it's appropriate the unit they petitioned for.

So in effect what we have here is a scope of bargaining unit type hearing where that's the issue which the Director must decide.

Before we proceed with the witnesses, I just want to make note for the record one more additional matter, and I'm making note of this per the request of Employer counsel.

This morning, immediately before the start of this hearing, I was served with a petition to revoke subpoenas. Prior to the start of this hearing the Petitioner apparently tendered subpoena ad testificandum to Mr. Norman Tremonti, who is the president of the Employer, and also to Mr. David Tremonti, who is the vice president of the Employer.

In addition, the Petitioner also tendered to the Employer a subpoena duces tecum for a series of documents related to this matter. I am fully mindful of the fact that petitions to revoke subpoenas are issues which are normally decided on the record. However, per the Employer's request, I will state that I am considering the petition to revoke subpoenas. At this time I have made no ruling. Later on in this [p. 13] hearing if need be I will make a determination on whether or not to honor the petition to revoke or to deny that petition.

Very well. Off the record briefly.

(Discussion off the record.)

HEARING OFFICER: Based on our off-the-record discussions, it's my understanding that the Employer has agreed to present the first witness in this matter. I'd like to now call to the stand Mr. David Tremonti.

MR. McCARTHY: If the Hearing Officer please, there is one more preliminary matter I wanted to raise for your consideration.

HEARING OFFICER: Yes.

MR. McCARTHY: I don't know if any of the other persons located in the room intend to be witnesses or are expected to be called. If there are any that are expected to be called, though, I think it would be appropriate, and we would so move, that there be a separation of witnesses prior to the rendering of any testimony in the case.

HEARING OFFICER: Mr. McClow?

MR. McCLOW: In fact, certain of the people in the room may testify and it hasn't been decided who [p. 14] will testify yet.

HEARING OFFICER: Would you have any objection to sequestering the –

MR. McCLOW: No, but I'd like to have one person who has been in the plant to stay in the room for my information.

HEARING OFFICER: Okay. Why don't we go off the record and we can decide at that time where the people can sit and wait because, like I say, I don't know

where exactly or if there's any waiting rooms around here.

MR. McCLOW: We can talk about that off the record.

HEARING OFFICER: Let's go off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record. Whereupon,

DAVID TREMONTI

was called as a witness herein and, having been first duly sworn, was examined and testified as follows:

HEARING OFFICER: Would you state your name for the record, please?

THE WITNESS: David Tremonti.

HEARING OFFICER: Spell Tremonti?

THE WITNESS: T-r-e-m-o-n-t-i.

[p. 15] HEARING OFFICER: Can you state your position with the Employer?

THE WITNESS: Vice President and Operations Manager.

HEARING OFFICER: Okay. Mr. McCarthy, you may proceed.

DIRECT EXAMINATION

BY MR. McCARTHY:

Q. Dave, I'd like to have you begin by giving just a brief description of the nature of the business that the Employer engages in.

A. Commercial printing, doing newspaper inserts, high volume.

Q. And could you explain a little bit more fully what a newspaper insert is and who the customers are that you sell newspaper inserts to?

A. We do grocery inserts for Great Scott out of Detroit, Abner Wolf out of Detroit, Kroger Corporation out of Detroit, Kroger Corporation out of Cincinnati, Ohio.

Q. And how long has NTA Graphics, Inc., the Employer in this case, been in business?

A. We started printing in October of '84.

Q. I would like to have you, if you could, Dave, explain how it is that the company proceeds from [p. 16] receiving an order to turning a product around; and what I'm most interested in is the duties performed along the way by the employees that are in dispute in this hearing.

A. Okay. Copy is picked up generally by myself from the advertiser. I take the copy from him to the plant and discuss with the composition department the requirements of the job.

The composition department makes the job ticket necessary for all departments to perform the job. They do

the paging for the various versions. They instruct the pre-press department on color, configurations. They instruct the press room on paper size and quantities. They discuss with the – direct the shipping department the destinations that the job is to go to.

HEARING OFFICER: What is copy? What do you mean by copy?

THE WITNESS: Mechanical drawings, the mechanicals that we take photographs of and then create the circulars with.

HEARING OFFICER: Okay.

THE WITNESS: From the composing department it then goes into the camera room where the person photgraphs [sic] it, pulls the negatives.

[p. 17] It goes from there to a proofing –

BY MR. McCARTHY:

Q. Let me interrupt for a second just so we're clear, David.

The camera room, what department is that a part of, if any?

A. The camera room is included in the pre-press.

It comes out of the camera room, goes to a proofing station that it's dyluxed for the customer's sake.

It then goes to the stripping department which also is in the preparatory department. They then cut the color, organize the pages, do all the stripping work for the flats.

It then goes to another proofing station where the color keys are generated. That department also is in the pre-press preparatory department.

If the color is correct, it goes on to the plating department, which is in the preparatory department. The plating department then makes the plates, proofs off the black and white proofs that the customer sends to us, assembles the plates for the pressroom, assembles the skid labels, the bundle tags, all of the things that the composition department does for the job ticket and assembles them in folder racks [p. 18] for the press room.

Mr. Skwiera creates the press sequence on how things are going to run.

The composing department then assembles the plates in that fashion. The pressmen come in –

Q. Just so the record is clear, David, could you identify who Mr. Skwiera is, his job title?

A. Mr. Skwiera is the Plant Superintendent, and he takes care of the quality control.

HEARING OFFICER: Could you spell his name, please, for the record?

THE WITNESS: S-k-w-i-e-r-a.

From the assembly of the plates and the putting in the folder, the pressmen request the plates by what folder they're running. They take it, they mount the plates on the press from the webs and all that, and then the first copies off come back to the plating department for proofing. Okay. The pressmen page proof at the press to make

sure that all the pages are in sequence off of the job ticket that the composition department generates.

If the page proofing is correct, it goes back to the plating department and they then word for word proof the circular to make sure that it's correct.

[p. 19] BY MR. McCARTHY:

Q. Now, when you refer to the plating department, is that part of a larger department?

A. It's part of the preparatory department.

Q. Okay.

A. In the preparatory department you have the camera, the stripping and the plating and the proofing, and actually the composition.

From the pressroom the pressmen put it on the press. They have material handlers that work in the shipping-receiving department that bring the rolls of paper to the press, and after the product is printed they remove the printed product and make it ready for shipping. They also remove the waste generated by making ready the rolls and to make ready waste from the press to start up.

They weigh the pallets out, they weigh all the waste to keep track of paper used on the job. The material handlers then take the product into the back, they wrap it, make sure the counts are right, stage the loading dock for the truck drivers, and then on specific shifts they load the trucks so that when the drivers come in they can take them out.

Q. Could you describe for us, please, what your maintenance department, if any, is and what [p. 20] functions it performs?

A. In the maintenance department we have janitorial and building and mechanical.

The janitorial keeps the entire plant clean, including the pressroom, in front of and behind the press.

The mechanical people keep the presses running and/or do the preventive maintenance on the presses so that they do run on or off base.

Q. You referred to building employees in the maintenance department?

A. The janitorial, the building maintenance.

Q. As far as –

A. Replacement of windows, carpet cleaning up front.

MR. McCARTHY: How do you want this marked?

HEARING OFFICER: Mark this Employer Exhibit 1.

(The document above-referred to was marked Employer's Exhibit No. 1 for identification.)

BY MR. McCARTHY:

Q. David, I've handed to you what's been marked for purposes of identification as Employer Exhibit 1. Can you take a look at that, please, and if [p. 21] you know what it is please explain what it is?

A. It's a listing of the employees by department and their classification.

Q. Does Employer Exhibit 1 contain the names of all employees of NTA Graphics, Incorporated, at least as of this time?

A. As of – yes.

Q. And Employer Exhibit 1 indicates various departments. Does it accurately depict which employees are assigned to which departments?

A. Yes, it does.

Q. And Employer Exhibit 1, next to the name of each employee, identifies a job classification. Does Employer Exhibit 1 correctly and accurately depict the job classification held by each of the employees named in Employer Exhibit 1?

A. Yes, it does.

Q. Could you explain just briefly, David, the respective job duties of a pressman and a jogger and what the differences between those two job classifications might be, if any?

A. The pressman is responsible for hanging the plates, make sure – following the information off of the job ticket, and running the job.

The material handler – or the jogger takes [p. 22] the paper off the end of the press after it's printed, does utility – they do cleanup around their area.

The pressman – not to jump back and forth – makes sure that there's ink and water in the press and that the

press is operational to perform the work. They change the blankets if necessary, they change the – do light mechanical work on it if there's a tucker blade that bends or water roller that needs changing. Anything out of their normal operation of the press is handled by mechanics.

The jogger's primary function is to load the papers off of the press onto a pallet and clean up his area.

Q. And also I'd like to have you describe what degree of contact, if any, there is between the maintenance employees and the pressmen.

A. The janitorial maintenance or the mechanical maintenance?

Q. Both.

A. Both? Janitorial maintenance, they on a routine basis walk through, sweep the plant; they clean the pressroom itself; they shuffle the ink buckets that the pressmen don't use or waste out to the back; they clean behind the press.

The mechanical people do the work that the [p. 23] pressmen can't do. If there's a major fold to repair, gears off the back of the press, things out of the normal operation of running the press.

Q. I'd like to have you explain, David, if you could, whatever supervisory or leadership structure you have to oversee your operation here in Toledo; in other words, we've talked about what employees in different departments do. I'd like to have you explain what degree of supervisors – or supervision and how you go about supervising and leading the operations in those departments.

A. As the Operations Manager, I have Mr. Skwiera that is basically my right hand. He and I sit down and decide how things are going to run come Friday for pre-plant the following week. In each department there's basically a control person, a group leader or supervisor, however you want to locate them, that the information goes to.

Do you want me to do this by department?

Q. Yeah, I think that would be the easiest way to understand it.

A. Okay. Randy Perdue, in the shipping and receiving is the group leader, manages all of the paperwork-clerical functions. He does the incoming inventory, he does the shipper-receivers for the [p. 24] product that leaves the plant, and he directs his drivers and the other people. He accumulates all of the weight slips from the jobs, the waste slips, and gives me reports every Monday. He records everything supplied to him from his people and takes care of the ink reports on a weekly basis, and generally does the paper inventories for me.

Q. To whom does Randy Perdue report?

A. To Mr. Skweira and myself.

In the pre-press department we have Beryl Grisier that, aside being the one that does the order, routinely does the clerical work on the end of the week to supply me all the reports as far as the film usage, the plate usage, the daily time sheets, everything that is accumulated during the week for me to put into the job ticket for billing purposes. He also does the scheduling of the employees in that department.

In the pressroom you have Scott Shaffer that is day side supervisor. He's also a pressman and he's also a mechanic. He reports to Mr. Skwiera for the run sequences and such. He also keeps the presses running when the pressmen that we have have problems, and when required runs the press.

Hollis Shaffer is the third shift control [p. 25] person, is the person that did all of our training of the new guys. Anyone that trained went to third shift to train that didn't have prior experience, or even those that did have some prior experience but were unfamiliar with the press trained under Hollis. He's a mechanic, and he was the one that followed from Scott where we were on the schedule, just to make sure that everything ran accordingly.

Q. To whom does Beryl Grisier report?

A. Beryl also reports to Mr. Skwiera.

Q. Okay. Does Beryl Grieser have unilateral authority to order supplies and expend money on behalf of the Employer?

A. Well, Beryl turns in –

MR. McCLOW: I have an objection. I think we're getting into issues that aren't before the Hearing Officer, which is the scope of the unit rather than the supervisory functions. I thought we agreed we were going to save those issues for objections at the election, for challenges at the election.

HEARING OFFICER: Well, I don't know if they're going to be in issue. Is it your position that Mr. Grisier is a supervisor within the meaning of the Act?

THE WITNESS: No.

[p. 26] MR. McCARTHY: Contrary.

HEARING OFFICER: To the contrary? Okay.

MR. McCLOW: I thought we had agreed to save that for later, and besides that –

HEARING OFFICER: Okay.

MR. McCLOW: Besides that, I would have an objection to doing it now.

HEARING OFFICER: Okay. In other words then, so the record is clear, with respect, at least of this time, to Mr. Grisier, the Employer is not contending he's a supervisor within the meaning of the Act and, of course, the Petitioner is taking no position on his supervisory status at this time as well.

MR. McCLOW: That's correct.

HEARING OFFICER: Okay.

MR. McCLOW: Because we don't know if he's going to be in the unit or not, for one thing.

HEARING OFFICER: Okay. Well –

MR. McCARTHY: Well, let me state for the record that there are three persons identified as group leaders: Randy Perdue, Beryl Grisier, Hollis Shaffer. It would be the Employer's position that all of these folks are not supervisors within the meaning of the Act, are properly included within the bargaining [p. 27] unit. I didn't intend to address those issues, I guess simply because it's my understanding – I think the Region prefers to pare down the number of challenges to the extent

you can, and so it was my assumption that we try and deal with those also today, but I'll be guided by whatever the Hearing Officer prefers to do.

HEARING OFFICER: Mr. McClow, any position on that?

MR. McCLOW: Yes. My position is that when we stated the issues it was the units, not the people in the –

HEARING OFFICER: Well, that was the issue, of course. I mean if during the course of the hearing the parties raise additional issues that need to be litigated and resolved in some fashion, by all means, the, you know, we're going to entertain them

It's my understanding, though, that these three group leaders, the Employer is taking the position they're not supervisors. The Union is taking no position on their eligibility to vote at this time.

MR. McCLOW: That's correct, because it's my position it's a hypothetical question at this time.

HEARING OFFICER: At this time?

MR. McCLOW: Yes, it is. And we aren't prepared to go fowward [sic] at this time with it.

[p. 28] HEARING OFFICER: Okay. Well, I'll let you discuss what their functions are if it has a bearing on the community of interest matter, tell us what they do.

MR. McCARTHY: Okay.

HEARING OFFICER: Because the Director may sua sponte make a determination on that issue if he wants. Go ahead.

MR. McCARTHY: Can we go off the record briefly?

HEARING OFFICER: Go off the record, please.

(Discussion off the record.)

HEARING OFFICER: On the record.

BY MR McCARTHY:

Q. David, I's like to ask you when considering your group of employees as a whole, when you hire employees – and I'm talking about all the departments now – do you require any particular training of any of those employees? And if you do, tell us which groups of employees you demand any special training of.

A. Well, unfortunately, we're not in the high tech press areas yet. There's not a lot to draw from with experience. It's been our practice to bring in people with limited or no experience and teach them the [p. 29] operation and the function of the equipment that they're going to be using.

Q. Do you have any special educational requirements that you demand of any or all of your employees when they are hired?

A. No, it's basically on-the-job training.

Q. Do I understand correctly, David, that all the operations of the Employer are conducted at one facility located at 5225 Telegraph Road in Toledo, Ohio?

A. The printing, yes.

MR. McCLOW: I'm sorry. That wasn't responsive to the question.

HEARING OFFICER: Repeat the question again.

BY MR. Mc CARTHY:

Q. My question was are all the operations of the Employer conducted at its facility here in Toledo at 5225 Telegraph Road?

A. Yes.

HEARING OFFICER: This is off the record briefly.

(Discussion off the record.)

HEARING OFFICER: On the record.

Just so that the reader of this record [p. 30] understands what is going on right now, just during our off-the-record discussions Mr. McCarthy obtained a document which we are going to mark as Joint Exhibit No. 1. It's Joint Employer and Petitioner Exhibit No. 1. It is a diagram of the Employer's facility setting forth what the facility looks like.

(The document above-referred to was marked Joint Employer and Petitioner Exhibit No. 1 for identification.)

HEARING OFFICER: So we can now proceed, Mr. McCarthy.

BY MR. McCARTHY:

Q. David, turning your attention to what has been marked as Joint Exhibit 1, is that a reasonably accurate depiction of the layout of the plant, the Employer's plant here in Toledo?

A. Yes, it is.

Q. Could you – with reference to Joint Exhibit 1, various areas of the plant are given different names or are labeled differently. Just so that the record is clear, I'd like to have you identify, if you'll refer yourself back to Employer's Exhibit 1, where the employees in each department work as identified on Joint Exhibit 1, the plant diagram.

[p. 31] A. The composing department works in the – do you want me to write on this or –

Q. No, no.

A. No?

Q. No. Just –

A. – works in these offices, this area right here that is labeled "Office."

HEARING OFFICER: Excuse me. Is that where the area located the "Office," is that like in the northern-western side of the building, what?

THE WITNESS: North is that way.

HEARING OFFICER: North is that way?

THE WITNESS: South is that way.

HEARING OFFICER: It's a portion in the south. May I make a little –

THE WITNESS: In this area here?

HEARING OFFICER: In the south, like a little square, "north, south, east, west."

Okay. Just so that the reader of the record knows what I'm doing is I'm making a little compass, and it's a rough compass, but just give you the general directional –

THE WITNESS: East and then west.

HEARING OFFICER: It sets forth the north, south, east and west directions. There are two offices [p. 32] adjacent to each other in the southern portion of the building as set forth in Employer Joint Exhibit No. 1. These two offices are in between what is designated "Main Office Entrance" and "Employee Entrance," and it's kind of like across the hallway from the camera room and the pre-press computers. So that's what we're referring to.

Mr. McCarthy?

MR. McCARTHY:

Q. Okay. David, why don't you proceed with the other departments and identify where they work on Joint Exhibit 1?

A. The pre-press area is this entire area across – again, well, in this front office area, as they have marked "Camera Room" and "Pre-presses," the entire area across the face.

HEARING OFFICER: Okay. It's those three –

THE WITNESS: Three separations as they have there.

HEARING OFFICER: Three separations that are across the hallway, so to speak, from the composition or two composition offices. One of those areas is designated

on the exhibit as "Pre-Press," then there's like a break there and it says "Camera Room," and then there is also to the right of that – [p. 33] or I should say to the east of that on this form just blank office, which is also a part of the –

THE WITNESS: Preparatory.

HEARING OFFICER: – preparatory or pre-press. Pre-press and preparatory are the same thing?

MR. McCARTHY: Yes.

HEARING OFFICER: Okay. For the reader of the record, whenever you see like "Department 100 Pre-Press" on the document marked Employer Exhibit 1, "Pre-Press" is "Preparatory." Those words are used interchangeably.

THE WITNESS: Okay.

HEARING OFFICER: Okay. I'm sorry.

THE WITNESS: In the pre-press department you have the camera room, you have the stripping room, and you have the plating department, proofing department, all four of these to occupy this area.

This area that they have listed as "Future Pre-Press" is the area that we are designing for a scanning room.

HEARING OFFICER: Which department is that part of?

THE WITNESS: That would be part of the pre-press department also.

HEARING OFFICER: Okay. That's that section [p. 34] in the southwest corner of your facility.

THE WITNESS: Okay. The shipping-receiving department, although we have shipping docks here and receiving docks back here, there – there is a shipping-receiving office here. The paper received is all through this area, and the printed product is all through this area after – the paper is received in here and stored. It's called up, taken into the pressroom, printed, brought out here and stored.

HEARING OFFICER: Okay. For the reader of the record's purpose, what the witness is saying is that there is a receiving dock located roughly in the northwest side of the building. The paper to be printed is – to be used for printing is received at that receiving dock, and then it is stored at what is marked on the form as "Paper Storage." There is a shipping and receiving office in that area. It then goes to the – the paper then moves to –

THE WITNESS: The pressroom.

HEARING OFFICER: – the main pressroom, which is adjacent to the pre-press offices that we referred to earlier. Okay. What –

THE WITNESS: From the pressroom it comes out into the storage area here, which is considered the high bay because of this 25-foot ceiling.

[p. 35] HEARING OFFICER: Okay.

THE WITNESS: But it's staged here, and then the shipping trucks are all on the dock and they load up here.

HEARING OFFICER: Okay. So high bay is in the eastern portion of the building and the finished product goes via the docks located in the high bay area.

THE WITNESS: Okay.

HEARING OFFICER: Okay.

THE WITNESS: So the shipping and receiving people are all through this area on a continual basis all day long. They're in and out of there all day.

HEARING OFFICER: Okay. So they walk – So we understand and so the reader of the record understands, the shipping and receiving people work carries them anywhere from where the receiving dock is marked on Joint Exhibit 1 to where the paper storage is to an area which says –

THE WITNESS: "Main Press Room."

HEARING OFFICER: – "Main Press Room" to an area on the Joint Exhibit that says "High Bay Area." They travel and their job takes them in all those areas. Okay.

THE WITNESS: The shipping and receiving people also store their scrap out in the same area. [p. 36] It's generated in this room and it's stored over here.

HEARING OFFICER: Okay. "This room" doesn't mean anything to a person reading the transcript. Be a little more specific.

THE WITNESS: Okay. The waste generated in the main pressroom is taken to the high bay area and stored, as is the printed product for shipping.

HEARING OFFICER: Scrap storage is kind of like in the northern portion of the high bay area.

THE WITNESS: Northern, right.

HEARING OFFICER: Okay.

THE WITNESS: The press room, we have two. We have the "Main Press Room," which they have diagramed [sic] here, and we have a second press room out back. The main press room is where the majority of our work is at the present time. The heat set press is – has been tested, and the eight-unit 845 is a running machine; however, we don't have many jobs for it because it's a high-volume press.

The pallet area is in this high bay. It's in the eastern section of the high bay. They produce the pallets necessary for the pressmen to put the printed product on to ship it out of the building.

The maintenance department, there's a maintenance office here and there is a maintenance [p. 37] area in the back. The custodial maintenance office is right here, and now the areas in which they store their mop buckets, things to clean the press with, and all that such are in this room also.

HEARING OFFICER: Okay. You're going to have to define "there" because, like I say, somebody reading the transcript won't know what you mean.

THE WITNESS: Okay. It would be in the second pressroom, in the back of the building.

HEARING OFFICER: In the back pressroom where the heat set being is erected. So that custodial, that little office there in the secondary pressroom, kind of across from where the paper storage is, is called "Custodial." That's where your custodial maintenance office is?

THE WITNESS: Right.

HEARING OFFICER: Okay. And adjacent to that office on the eastern side are places for the buckets and everything, right?

THE WITNESS: Correct.Okay.

THE WITNESS: Okay. The maintenance and rebuilding section in the northern section of the building is where there are presses being rebuilt and equipment goes to that department to be repaired, for [p. 38] example, the counterveyors off of the press, when they break one is rolled into the back and one that's been rebuilt is brought up to the front. There's an exchange of equipment. And then the maintenance people rebuild it.

There's also an inventory storage room in this maintenance and rebuilding thing in the northern portion of this picture that all of the supplies are stored now for the building maintenance, the press maintenance, all of our inventory is in this back maintenance and rebuilding room in the northern room with the exception of paper and ink.

HEARING OFFICER: Okay. That room is designated "Maintenance and Rebuilding" on the chart that we have before us, Joint Exhibit 1.

THE WITNESS: Maintenance, you have offices in the southeast corner. All your management and office personnel, as on the Exhibit 1, are in this southeast corner next to the high bay in the front area, office area. So we have this, this, this. That's it.

MR. McCARTHY:

Q. David, you've identified the area in the plant where the composition department employees work.

A. Correct.

[p. 39] Q. Do those, the employees in that department have occasion to be outside those offices at any time?

A. Yes. They frequent the pre-press preparatory department quite often, because what they do – the preparatory department can't do anything until they're done with their job.

Q. Until who's done with their job?

A. Until the composing department is done with their function, the pre-press can't do anything. They take the product into there, they discuss the job, they also go into the plating area, which is adjacent to the pressroom to – for the job skid labels, which – the area is accumulated in this southwest corner of what they have labeled as the "Pre-Press Department."

So, yes, they frequent the pre-press department regularly. The time clock is in the pressroom. Everybody has to go through that. And –

HEARING OFFICER: The time clock is in the main pressroom or the secondary?

THE WITNESS: Main pressroom. The time clock is in the main pressroom right outside the quality control office here.

HEARING OFFICER: Okay.

THE WITNESS: They deal with –

[p. 40] BY MR. McCARTHY:

Q. You say –

A. Excuse me. They deal also with the shipping-receiving people, if not in person by the telephone communication system in the building.

Q. You say everyone goes through the time clock. Can you identify – maybe the easiest way to do it is tell us who does not punch the time clock.

A. The only people that don't use the time clock are myself, Gail Tremonti and Frank Skwiera. Everybody else is hourly. Everybody.

Q. When you say "hourly," what do you mean by that?

A. They get paid on an hourly basis.

Q. And they all – other than the three you mentioned, they all punch the time clock?

A. Yes.

Q. Now, you identified on Joint Exhibit 1 the area where the employees in the pre-press department work.

A. Correct.

Q. Do the employees in that department have occasion to be outside those offices in other areas of your facility?

A. Yes. They – other than punching in and out [p. 41] tjey [sic] have the – they're in the pressroom regularly to A, deliver plates, B, shut down a press if it's – in their proofing system have found out that the version

that they're running, if there's an error in it, they go out and they shut down the press. They work –

Q. How do they go about shutting down the press?

A. After the pressman has page-proofed a version it's brought back to the preparatory department, it's proofed; if there's an error they then go out physically and shut down the press, as far as tell the press –

Q. Do they shut it down?

A. No, they tell the pressman to shut it down.

Q. Okay. Any other occasions that employees in the pre-press department might be found outside their specific offices?

A. Just if they're working with the pressmen on a press problem, or a test.

Q. Can you give us any idea, David, as to the total square footage of your facility here in Toledo?

A. It's just under 100,000 square foot.

HEARING OFFICER: Can you give the dimensions, like length and width, roughly? You don't have – just as close as you can.

[p. 42] THE WITNESS: I know it's 100,000 square foot. I know this room is 25,000 square foot. I know this –

BY MR. McCARTHY:

Q. Which one is that now, David?

A. This is the high bay.

HEARING OFFICER: The high bay is 25,000 square foot.

THE WITNESS: Uh-huh. The pressroom itself is roughly – these rooms are proportionately run, but these rooms are – is roughly 25,000 foot. The office, pre-press, preparatory, management office, composition office is roughly 12,000 square foot.

This future pre-press room is roughly 3500 square foot.

The maintenance rebuilding area is roughly 35 to four thousand square foot.

And the 845 in the paper storage area would make up the difference along with Mossing Machinery. Mossing Machinery is around 2500 square foot.

HEARING OFFICER: What is Mossing Machinery? Is that – what department is that?

THE WITNESS: Mossing Machinery is owned by David Mossing. He does mechanical repair for us, to keep the presses up. If there's an emergency nature, [p. 43] as far as a gear breaking, an emergency repair, we need something, he will generate that for us. He bills NTA geographics [sic].

HEARING OFFICER: He's not an employee of the company?

THE WITNESS: He's not an employee.

HEARING OFFICER: Okay.

THE WITNESS: The balance is made up of the 845 pressroom as we call it and the paper storage area, to up to 100,000 square feet.

BY MR. McCARTHY:

Q. David, Joint Exhibit 1 makes reference to a cafeteria?

A. Yes.

Q. Would you tell us who uses that cafeteria?

A. Everybody. There is a bank of vending machines in there and picnic tables for the lunch hours for everybody's use. The office people get their pop out of there, they seldom sit and eat out there. We also use the cafeteria as a training room when we have – and/or when we have meetings we have them in that room.

Q. You mentioned that all employees – well, let's say all employees under consideration here today are paid on an hourly basis.

[p. 44] A. Yes.

Q. Could you please go through department by department and tell us the range of hourly rates for employees in that department, and by that I mean working in a department what the lowest hourly rate is and what the highest hourly rate is.

A. Okay. Excluding management and office because they're not included here?

Q. Yes. We're not concerned with those.

A. The Department 900, Maintenance, you have 4.50 to $10.00; Pallets, you have 6.50; Shipping-Receiving, you

have anywhere from 4.90 to $9.00; Composing, you have $6.00 to 7.50; Pre-Press, you have 4.90 to 9.25; Pressroom 3.85 to $9.00.

HEARING OFFICER: Stop. Just a quick question. Sorry to interrupt, but there's a Department 910 on Employer Exhibit 1 called "Pallets."

THE WITNESS: That was 6.50.

HEARING OFFICER: That's 6.50?

THE WITNESS: $6.50.

HEARING OFFICER: Is pallets a separate department and entity unto itself, or is that part of the maintenance?

THE WITNESS: Part of the maintenance.

HEARING OFFICER: It's part of the [p. 45] maintenance –

THE WITNESS: 900.

HEARING OFFICER: Okay. It's really part of 900, so it's –

THE WITNESS: It's a sub.

HEARING OFFICER: For purposes of this petition, when we refer to maintenance department, we're also including Paul Griener, G-r-i-e-n-e-r, who is the pallet man.

THE WITNESS: Let me clarify. The pressroom, were you including supervisors when you asked that question or the –

BY MR. McCARTHY:

Q. Not including Scott Shaffer.

A. Not including Scott Shaffer?

HEARING OFFICER: No. We're not including supervisors within –

THE WITNESS: Okay. What about the questionable people, or we don't have –

HEARING OFFICER: Pressroom?

THE WITNESS: Yes.

HEARING OFFICER: What is the range of hourly wages?

THE WITNESS: Right. As far as – Howard Shaffer is on here. Include him in that figure?

[p. 46] BY MR. McCARTHY:

Q. Yes.

A. Okay. It stays 3.85 to $9.00.

Q. I'd like to have you discuss, Dave, the – what daily work schedules employees work, and tell us if there are any differences in those daily work schedules among the various departments.

A. The pre-press department and composing and pressroom – well, one by one.

Pre-press generally starts Monday morning at six o'clock, works for three days, is off Thursday, works Friday. Because of the configuration –

Q. Begins at 6:00 Monday through Wednesday. When do they end?

A. Begins at six o'clock Monday morning. Right. There's people in the department all week long, but the major folks work three days off, one on one. There is a person that works five eights to cover the shifts when there's nobody there.

Q. Okay. The three – the persons that work three days on, one day off, they begin at 6:00 a.m. in the morning, and what time do they end their shift on Monday through Wednesday?

A. Well, right now we're on two shifts. We're working day side. And, actually, all of the hours are [p. 47] different in the department. You have a person working Monday morning from 6:00 until 4:00. You have a person working 2:00 until midnight. You have a person working 4:00 until 2:00. You have people working from midnight until 10:00 in the morning. It's just a variety of – and you have some part-time people in there from 8:00 until 2:00 at night and from 8:00 until midnight, Monday till Wednesday, because that's when the brunt of our work comes in, in that department. They also work Friday because they get ready for the Monday. We get the color boards in early and Caroline will make the job tickets.

Q. Who is Caroline?

A. She's in the composing department.

Q. Okay.

A. For those folks to cut the color.

Q. Friday, what's their Friday schedule?

A. Friday, if there is no press running they're out of there at midnight.

Q. When do they start?

A. Well, it's just – you'd have someone starting, depending on the copy for the midnight, you have the kid during the day that works 8:00 to 4:00 on Friday. By the time Friday comes we're back to an eight-hour shift.

[p. 48] Q. Okay.

A. Okay. The pressroom, we're currently working eights and twelves. We work an eight-hour shift on – starting Monday midnight to Tuesday morning 8:00 a.m., and then from Tuesday morning till – 8:00 a.m. till Tuesday morning – Tuesday evening 8:00 p.m. they go to 12-hour shift. So they're working roughly 44 hours a week.

HEARING OFFICER: How many shifts do you have in the pressroom?

THE WITNESS: Right now we have two.

HEARING OFFICER: Two shifts. What are the shifts generally, morning shift and a –

THE WITNESS: We have a day and a night shift now because –

HEARING OFFICER: A night shift and a day. Okay.

THE WITNESS: Midnight we'll start – you know, they start Monday midnight, work for eight hours, and then you start Tuesday day and work three twelves, and then Friday they work an eight. Monday midnight they start, they work an eight and then they come back

with three twelves; and it depends on if there's work on Friday, if there's work on Friday we stay.

[p. 49] BY MR. McCARTHY:

Q. I'm a little bit – I'm unclear on the employees that start Monday at midnight and work eight hours. You say they also work three 12-hour shifts? When are those three 12-hour shifts?

A. Starting Tuesday night.

Q. Tuesday night. Okay.

A. Right.

Q. Tuesday midnight?

A. No. They come back Tuesday at 8:00 p.m. to work for three twelves.

Q. Okay.

A. The composing department, they work a variety of hours. They might work six hours on Friday, 12 hours on Monday, 13 hours on Tuesday, and not work Wednesday and Thursday; work 2 hours on Wednesday and not work Thursday at all. There's two people in the department and they just work when there's jobs come in, jobs come in.

The pallets, they work roughly 8:00 to 4:00, 8:00 to 5:00 five days a week.

Maintenance department is – you have two shifts. Have a janitorial on second that works 4:00 to midnight. The other guy – two guys work 8:00 to 4:00, and then the – well, the other four guys then [p. 50] work 8:00 to 4:00, 8:00 to 5:00, in that area, depending on the work.

I think that covers it.

Shipping and receiving, they start on Tuesday, work till Saturday. If there's no Saturday delivery, they work Monday to Friday.

Q. Okay. And what schedule do they work Tuesday through Saturday?

A. They're pretty standard. They're pretty – 8:00 to 4:00 or 4:00 to 12:00, 12:00 to 8:00.

HEARING OFFICER: You have three shifts for shipping and receiving?

THE WITNESS: Yeah. There's overlap on all of them. I think they're working 10-hour shifts. They're all overlapping.

Office and management is not applicable.

BY MR. McCARTHY:

Q. Now, the employees in the various departments, maintenance, shipping and receiving, composition, pre-press, pressroom, are these employees subject to the same disciplinary rules or do you have different disciplinary rules for each department?

A. Absence, tardiness, doing something wrong, they all – the same procedure is followed.

[p. 51] (A document was marked Employer's Exhibit No. 2 for identification.)

BY MR. McCARTHY:

Q. David, you've been handed what's been marked for purposes of identification as Employer Exhibit 2. Can you tell us what that is, please?

A. It's our Employee Handbook.

Q. And Employer Exhibit 2 – well, why don't you describe what the Employee Handbook contains?

A. The Employee Handbook is an overview of – it's welcoming you to the staff as a new employee; it gives you in black and white the guidelines to follow, who to talk to. It answers questions of procedures, overtime pay, hours of work, the benefits provided. It goes into disciplinary procedure. It has fire and emergency procedures, your benefits, general working rules and regulations to try and follow, and safety rules in here.

Q. Okay. Which employees in your operation are governed by Employer Exhibit 2, the Employee Handbook?

A. Everyone has been issued one from management down, and there's one in their files. Everybody in the place.

Q. Okay. You made mention of benefits being [p. 52] listed in the Employee Handbook.

A. Yes, it is.

Q. We don't need to read those, but can you give us a list of the benefits described in the handbook?

A. Described, you have the vacation schedule, for after periods of time. You have the insurance and medical and life insurance is stated in there. It doesn't say anything about the uniforms or the shoes that we issue, but those are issued after 90 days.

Q. The benefits described, are those the benefits provided to all employees?

A. Yes.

Q. With respect to things like insurance benefits, are all employees – again, when I use the word "employees" in these questions I'm referring to the employees in issue in this hearing today.

A. Okay.

Q. – which is all but management and office clerical employees.

A. Okay.

Q. Do all those employees receive the same medical insurance benefits?

A. Yes. Same life insurance, too.

Q. Same life insurance?

[p. 53] HEARING OFFICER: Who is your medical policy with?

THE WITNESS: Toledo Health Plan.

HEARING OFFICER: And your life insurance?

THE WITNESS: C&M Alliance out of Connecticut.

BY MR. McCARTHY:

Q. The handbook describes in the benefits section vacation benefits?

A. Yes.

Q. Are the same vacation benefits provided to all employees?

A. Yes, they are.

Q. You made mention of an hourly rate. All employees are compensated on an hourly basis as you've previously testified to. Do any employees receive any piece rate compensation?

A. No.

Q. Do any employees receive any commission compensation?

A. No.

MR. McCARTHY: I need one second.

HEARING OFFICER: Off the record.

(Discussion off the record.)

(A brief recess was taken.)

[p. 54] BY MR. McCARTHY:

Q. David, referring to different parts of the handbook, if you need to look at that or read them please do so, but I don't believe you will, the handbook discusses a policy on overtime pay.

A. Un-huh.

Q. Or I guess tells an employee how and when they receive overtime pay.

A. Correct.

Q. Is that policy applicable to all employees?

A. All employees.

Q. There's a discussion of payday. Is that procedure applicable to all employees?

A. Yes.

Q. There is an absence policy. Is that policy applicable to all employees?

A. Yes, it is.

Q. There's a statement of disciplinary procedures?

A. Correct.

Q. Are those procedures applicable to all employees?

A. Yes, they are.

Q. There is a smoking prohibition policy. Is that policy applicable to all employees?

[p. 55] A. Yes, it is.

Q. There are various rules as to the facilities. Are those rules applicable to all employees?

A. Yes, they are.

Q. There are rules on telephone calls and personal visitors. Are those rules applicable to all employees?

A. Yes, they are.

Q. There are rules – I'll put them together – on plant visits, solicitation and distribution, off-duty access; and to the extent those rules apply to any employees, are they applicable to all employees?

A. Yes, they are.

Q. There is a policy or discussion of security procedures. Are those procedures applicable to all employees?

A. Yes, they are. That's been stepped up, too.

Q. And there is a policy on bulletin boards. Is that applicable to all employees?

A. Yes, it is.

Q. At the back of the handbook – I don't have a page number, but there is an acknowledgement form.

A. Correct.

Q. Were all employees required to sign that form?

[p. 56] A. Yes, they are.

HEARING OFFICER: Off the record briefly.

(Discussion off the record.)

HEARING OFFICER: On the record.

MR. McCARTHY: I have no further questions at this time.

HEARING OFFICER: Petitioner counsel, you may proceed.

MR. McCLOW: Are we going to take a lunch break?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

CROSS-EXAMINATION

BY MR. McCLOW:

Q. You've located the main pressroom on the diagram. The pressroom is basically in the middle of the plant; is that right?

A. Correct.

Q. And there are walls to the south of the pressroom and a complete wall to the south and to the north of the pressroom; is that right?

A. Yes.

Q. And that wall goes all the way to the ceiling?

[p. 57] A. Yes.

Q. All right. So there's a separation between the pre-press area and the pressroom by – was it a brick wall or –

A. Yes.

Q. The entrances to the pressroom are on the east and the west side, is that right, of the pressroom?

A. East and west and there is one on the south wall.

Q. And that's between the –

A. It's in the quality control area.

Q. Between the two offices?

A. Well, it accesses the pressroom to the front of the building.

Q. Okay. So in order to get from the pressroom to the front of the building. you go through the quality control office and then into the main office area; is that right?

A. Correct, or around

Q. Or else you can go out the west side.

A. West end.

Q. West end and go around?

A. Correct.

Q. Right. Is that door between the two offices still open to employees to travel through it?

[p. 58] A. All the pre-press and the front office people walk through that, yes.

Q. But the pressroom people can't walk through that; is that right?

A. They can walk in through here or they go in through the employee entrance to the locker room to the time clock, to the locker room, to the employee entrance.

Q. What you're saying then is that the press employees do not use the restroom then in the front office space; is that right?

A. Correct.

Q. The pre-press employees do use that restroom?

A. Yes, they do.

Q. And the pressroom employees use the locker room restroom that's in the back of the plant; is that right?

A. Correct.

MR. McCLOW: Can I go off the record for a second?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

[p. 59] BY MR. McCLOW:

Q. In the pressroom there are approximately six presses; is that correct?

A. (No response.)

Q. And they're designated with number and letter designations?

A. Two, four, six folders.

Q. And a press is a fairly complicated piece of machinery; isn't that correct?

A. Yes.

Q. It's composed of a place where the paper rolls are loaded onto spindles and call it Butler, is that right?

A. Correct.

Q. And each Butler has a place for two rolls of paper?

A. Yes.

Q. And the reason for that is that these Butlers are able to piece the tail end of one roll of paper to the front end of another roll of paper; is that right?

A. Yes.

Q. So you've got a continuous operation without shutting down the press and reloading the paper; is that right?

[p. 60] Q. And the duties involved in loading the paper onto the Butlers is the pressman's and the jogger's; is that right?

A. Yes.

Q. The six presses in the pressroom are designated 1A, 1B, 2A, 2B, 3A and 3B; is that right?

A. Yes.

Q. Is it correctly designated on this diagram?

A. Yes, it is.

HEARING OFFICER: For the reader of the record or the transcript, you'll see the main pressroom on Joint Exhibit 1 and on – by the walls on each side – it's kind of self-explanatory – you will see where the presses are located. They're not in the center of the room but rather by the walls. 1A, 1B, 2A and 2B on the north wall; is that right?

THE WITNESS: Yes.

HEARING OFFICER: And 3A and 3B on the south wall?

THE WITNESS: Correct.

BY MR. McCLOW:

Q. These are web presses, right?

A. Yes, they are.

Q. And a web press is a press that has a continuous feed from a paper roll; is that right?

[p. 61] A. Yes.

Q. That's opposed to a sheet-fed press which sheets of paper are inserted into the press; is that right?

A. That's correct.

Q. You don't have sheet-fed presses, do you?

A. No.

Q. Now, each press in the main pressroom has several units; is that right?

A. Yes, they do.

Q. And each unit puts a particular color on the paper; is that right?

A. Yes, it does.

Q. And the presses that you've got, each unit has the ability to put an image on the top and bottom of the paper at the same time; is that right?

A. Yes.

Q. And just so the person who is reading the record can understand a little bit about this procedure, there are several cylinders in each unit, is that right, metal cylinders?

A. Yes, there's four in each unit.

Q. And then there are smaller cylinders for the ink and the water; is that right?

A. Rollers, correct.

[p. 62] Q. So you have four cylinders and several rollers?

A. Correct.

Q. There is a blanket cylinder on the top and the bottom; is that right?

A. Yes, there is.

Q. And the paper runs between that; is that right?

A. Yes.

Q. All right. And the blanket is a rubber blanket that's attached to a metal cylinder; is that right?

A. Yes.

Q. And then above that, with respect to the image that's put on the top of the paper, there is another cylinder to which the plate is attached; is that right?

A. Yes.

Q. And the same thing happens on the bottom –

A. Correct.

Q. – underneath the blanket, so that there is a – the plate cylinder where the plate is attached; is that right?

A. Correct.

Q. And when the paper runs through the blanket [p. 63] blanket cylinders, what happens is ink is placed on the rollers which then is transferred to the plate cylinder, the plate on the plate cylinder; is that right?

A. Yes.

Q. And then the ink on the plate is then transferred as the cylinder goes around to the blanket cylinder.

A. Yes.

Q. The rubber blanket on the blanket cylinder; is that right?

A. Uh-huh.

Q. And then the image is put on the paper by the rubber blanket?

A. Yes.

Q. And a pressman is responsible for such things as alignment of the images that are placed on the paper?

A. Yes.

Q. For the darkness of the color?

A. Yes.

Q. And in order to control the darkness or lightness of the color, you – there are gauges that adjust the water flow and the ink flow; is that right?

A. There's keys on the ink.

[p. 64] Q. There are keys on the ink tanks that you adjust –

A. Fountains.

Q. The fountains, so you let more or less ink in; is that right?

A. Correct.

HEARING OFFICER: The pressman is responsible for adjusting those keys?

THE WITNESS: Yes, he is.

HEARING OFFICER: Okay.

BY MR. McCLOW:

Q. There are also various controls that control the tension of the paper, the speed of the paper, as I said, the alignment of the paper on the rolls, and also the placement of the image in a particular spot on the paper; is that right?

A. Correct.

Q. And what happens is the paper goes through one unit and a certain color image is imprinted or placed on the paper; it goes to the unit, another color image is placed on it; and it goes to the third unit another color; and then it goes to the fourth unit, another color. Is that basically right?

A. Correct.

Q. And if there's four units in a particular [p. 65] press, you can place four colors on that papers; is that right?

A. Yes.

Q. And that's why they're called a four-color press?

A. Yes.

Q. And most of these presses that you have are four-unit presses; is that right?

A. They're laid out in configutation [sic] such that you can run a four-unit or an eight-unit together.

Q. When you run an eight-unit, you have to [sic] presses going into the same folder basically; is that right?

A. Yes. And then there's one press that has 12 units.

Q. And which one is that?

A. It's on the south wall.

Q. And that's 3A and 3B together; is that right?

A. Correct. 3A and 3B, right.

Q. After the image is placed on the paper, it goes into the folder where it's slit, folded, and cut; is that right?

A. When applicable, yes.

Q. When applicable. If it needs to be folded, [p. 66] and –

A. It's folded anyway and comes out into a section, yes.

Q. And the jogger's job generally, when the press is running, is to take the finished product, the finished folded product out of the folder and stack it on pallets?

A. Correct. To make sure the count is right coming out of the folder.

Q. And the jogging term comes from, I suppose, jogging the papers to get them even; is that right?

A. To make a brick, yes. To make a brick.

HEARING OFFICER: The stacks of product are folded, and the product is called a brick? I mean you –

THE WITNESS: When you stack them up, yes. Lifts – well, it varies all over. You have lifts of 50, bundles of 250, so it's five stacks of 50, alternated, and then that's a brick.

HEARING OFFICER: Okay. And the stack is a brick.

THE WITNESS: That stack has then become a brick.

HEARING OFFICER: Okay. I just want to know terms of the art or jargon here.

[p. 67] MR. McCLOW: Try to keep away from that as much as we can.

BY MR. McCLOW:

Q. Now the only employees who work in the press-room on a regular basis are the pressmen, the pressmen trainees and the joggers; is that right?

A. The material handlers are in there all the time.

Q. But they don't work in there all the time. They bring the paper in and then they go back out, and then they take the skids out and they go back out; is that right?

A. They bring the product in and they take the product out, and they take care of all of the –

Q. Well, when you say they take the product in, what they do is take in the rolls of paper?

A. Rolls of paper, correct. They don't take –

Q. And they do that by what they call clamp trucks; is that right?

A. Correct.

Q. And a clamp truck is a – is that sort of like a high-low that's got clamps on the side that clamps to the

rolls of paper, to the bottom roll if they're taking more than one?

A. Uh-huh.

[p. 68] Q. And they lift that up and they move it into the pressroom and set it down near the butler that is gong to use that kind of paper; is that right?

A. Correct.

Q. And then they leave, right?

A. yeah.

Q. And if they're going to go get the finished product out of the pressroom, which is now on a skid, they get a forklift truck, not a clamp; is that right?

A. Right.

Q. And then they take that into the high bay area; is that right?

A. Right.

Q. With respect to the janitors, you say they are in the pressroom to sweep and mop the floor?

A. Yes.

Q. They sweep and mop the entire facility; is that right?

A. Yes, they do.

Q. They do the offices?

A. Yes.

Q. They do the pre-press area?

A. Yes.

Q. They do the locker room and the restrooms?

A. Yes.

[p. 69] Q. Their responsibility is to keep the entire area clean; is that right?

A. Uh-huh.

Q. And there is one janitor for each press; is that right?

A. No.

Q. I mean one janitor for each shift?

A. Roughly, yes. One eight-hour. The janitors clean the pressroom because of the pressmen's inability to keep it clean. There was a half-hour overlap of shifts prior to us putting a janitor into the room on a regular basis because in the half-hour overlap it wasn't adequately being cleaned, and housekeeping is a fetish.

Q. Okay. So what you're saying is that at one point in time it was the press operator's and the jogger's job –

A. Responsibility.

Q. – to keep the press area clean.

A. Yes.

Q. But because management was dissatisfied with the way they cleaned or mopped the floor, when the moved supplies the janitors began to do that?

A. Uh-huh. They began to assist, yes.

HEARING OFFICER: When did they begin to [p. 70] assist, do you know how many years ago or months?

THE WITNESS: I'd put it three, six – eight months ago maybe.

BY MR. McCLOW:

Q. Now, janitors are not allowed around the presses when the presses are running; isn't that right?

A. Correct.

Q. They can only come in when the presses are shut down; isn't that right?

A. Well, they do the mopping and such through the plant when the presses are running, yes. They don't clean actually up on the press when they're running, no.

Q. They aren't allowed around the press when the press is running; isn't that right?

A. They clean behind them.

Q. When the press is running?

A. Yes.

Q. How many feet are there between the walls and the presses?

A. There's six foot.

HEARING OFFICER: So that the space between the presses themselves and the walls that we were referring to is six feet roughly?

THE WITNESS: Roughly.

[p. 71] HEARING OFFICER: Okay.

BY MR. McCLOW:

Q. Just so we get an idea as to this, earlier looking at the diagram, approximately how long is the unit 1A and 1B, for instance, how many feet long is this?

A. Folder to folder it would be about seventy foot.

Q. So these are large machines?

A. They're long, yes.

Q. And they have hundreds of rollers in them; is that right?

Well, let's say dozens, dozens of rollers?

A. There's rollers in them, but I couldn't tell you how many are in them, though.

Q. There's cylinders and rollers that do all sorts of different functions with respect to tension and alignment and so forth.

A. I believe so, yes.

Q. And with respect to getting one paper roller up to speed when it starts out,

A. That I don't know. Well, there's a speed control on the press, you can speed up with the press button.

Q. So you aren't sure about –

[p. 72] A. Right.

Q. – about whether this particular roll, to get the new roll up to speed, you don't –

Q. [sic] It's a zero speed butler. If the press is running at 20,000 pieces impression and it's set up properly, you can snap it and you won't miss a lick and it will just keep on running through.

Q. Are you a pressman yourself?

A. No, I'm not.

Q. In the pressroom, particular employees are assigned to particular presses on each shift; is that right?

A. Yes.

Q. And so there would be a particular person assigned to Press 1A; is that right?

A. Yes.

Q. And there would also be a particular jogger assigned to that particular press; is that right?

A. Yes. We try to keep teams.

Q. That's an expression, that the pressmen and joggers are assigned to a particular press and they function as a team; is that right?

A. Yes.

Q. And some of these presses – are they all the same or are there some different models?

[p. 73] A. We have a V-22 and a V-25. The only difference is the speed capability and the print quality. Same manufacturer.

Q. It's a Harris.

A. Harris.

Q. The function of the press operator is to set up the press, put the paper in the press, check the ink levels before a run, check the width of the paper, make sure it's correct, clean up the press before it runs – after it runs dyes and before it runs dyes, check the water level to make sure it's correct, check the ink level to make sure it's correct, and do all sorts of adjustments in order to make sure that the press run is going to be according to specifications; is that right?

A. Uh-huh.

Q. Maybe you'd better say "yes," because we've got a –

A. Yes.

Q. And the jogger, he helps the press operator get the press ready for a run; is that right?

A. He's supposed to, yes.

Q. That's part of his job?

A. Uh-huh. He also maintains the cleanliness around the press.

[p. 74] Q. His job also is to clean the floor around the press; is that right?

A. Right.

Q. I'd like you to look at company Exhibit 1, if you would. I'd like you to look at Department 000, the press-room. You have classifications of pressman trainee there; is that right?

A. Yes, I do.

Q. Now, the bottom of that department on the next page it says, "A trainee is anyone with less than three years experience," is that right?

A. Yes.

Q. Does that sentence apply only to the pressroom?

A. The trainees? No.

Q. No, "A trainee is anyone with less than three years experience," does that sentence apply only to pressman trainees?

A. No.

Q. Okay. What other trainees are there?

A. Well, when we teach someone the pre-press function.

Q. Now, looking at Department 100, there's nobody there listed as a trainee; is that right?

A. Uh-huh.

[p. 75] Q. Is that because they've been there for three – everybody has been there for three years –

A. No.

Q. – or is it because they came with prior experience?

A. They came with prior experience.

Q. Have you ever had a stripper or a camera trainee?

A. Yes.

Q. And who would that have been?

A. They're not on that list.

Q. They're no longer with the company?

A. No. On this –

Q. You wouldn't have a –

A. Excuse me. On this list the only one that we'd consider to be a trainee would be Darcy Doyle, in the pre-press department.

Q. And she's a plater?

A. Yes.

Q. But she's not listed as a –

A. No, she's not.

Q. – plater trainee?

A. No, she's not.

Q. Has she been there less than three years?

A. Yes, she has.

[p. 76] Q. Now you wouldn't, of course, have a janitorial trainee, would you?

A. No, I don't.

Q. And you wouldn't have a material handler trainee, would you?

A. No, I don't.

Q. It doesn't take three years to learn how to –

A. That's correct.

Q. – run a forklift, does it?

A. That's correct.

Q. And I expect that you don't have a driver trainee, either.

A. No.

Q. You hire drivers who are qualified, is that right?

A. With experience.

Q. And I expect you don't have a pallet maker trainee?

A. No, I don't.

Q. What a pallet maker does is he saws boards and puts them together; is that right?

A. Yes.

Q. Nails them together with an electric air gun?

[p. 77] A. An air hammer, yes.

Q. Do all your truck drivers have chauffeur's license?

A. Yes, they do.

Q. Are they the only employees that have a chauffeur's license as a requirement of their job?

A. As a requirement, yes.

Q. Under Department 000, you've only got one person listed as a pressman other than Mr. – the two Mr.

Shaffers, and that's Ron Nagle, who is also listed as a jogger; is that right?

A. Uh-huh.

Q. Has he had three years experience as a pressman?

A. No, he hasn't.

Q. So should he be listed as a pressman trainee?

A. Yes, he should.

HEARING OFFICER: Excuse me. What does utility mean? Under Department 000, the pressroom, it says "utility."

THE WITNESS: If the press is down and we need someone to trim a certain job they would go out and trim. It's a – you do all the functions of maintenance as needed.

[p. 78] HEARING OFFICER: Okay. Thank you.

BY MR. McCLOW:

Q. Okay. When you say that – all the joggers have a slash utility after their name.

A. Uh-huh.

Q. Basically, is that right?

A. Yes, sir.

Q. And you say when the press is down and there is nothing for them to do in the pressroom, you find something else for them to do?

A. Uh-huh.

Q. Is that right?

A. Yes. Janitorial is everybody's second job.

Q. Now, with respect to pressman training, you said it was on-the-job training; is that right?

A. Yes, it is.

Q. Have you hired any employees with press experience?

A. Yes.

Q. And if you hire an employee without pressman experience, does he sometimes work as a jogger?

A. He starts as – everybody starts as a jogger in the pressroom.

Q. And through being a jogger he can work with the presseman [sic] and see how the press works; is that right?

[p. 79] A. Right.

Q. And he can learn where the ink goes and he can learn where the paper goes and he can learn where the controls are, and those things; is that right?

A. Yes.

Q. And you consider that a person is not a full-fledged pressman unless he's had three years experience, either as a jogger or a pressman trainee; is that right?

A. Yes.

Q. A pressman trainee would sometimes run a press on his own prior to the time he became –

A. Yes.

Q. – classified as a pressman; is that right?

A. Yes.

BY MR. McCLOW: I'm going to show you – well, I'm going to get it marked first, I guess.

(The document above-referred to was marked Petitioner's Exhibit No. 1 for identification.)

BY MR. McCLOW:

Q. I'm going to show you what has been marked as Petitioner's Exhibit 1, and it's in a blue folder, and on the first page it's got in large letters Harris V-25 Web Offset Press Operating Manual. Is that [p. 80] an operating manual that NTA uses?

A. Yes.

Q. Is that a manual that NTA has distributed to its press trainees and pressmen?

A. Yes.

Q. That's a fairly detailed operating manual; is that right?

A. Yes.

Q. It's got some 70 pages; is that right?

A. Yes.

Q. And that particular manual describes in some detail the workings of a –

A. Press.

Q. – Harris Web Press; is that right?

A. Yes.

Q. It's a fairly complicated piece of machinery to operate, isn't that right?

A. Yes.

Q. It takes a long time to get skilled as to making a good finished product; isn't that correct?

A. Yes. It depends on the person's ability.

Q. Sure, and some people don't have the ability to do it ever; is that right?

A. That's correct.

Q. Now, with respect to the pre-press area, [p. 81] there are – there's a camera person, a stripper and a plater basically; is that right? Those are the –

A. Those are the functions –

Q. Those are the positions. Thare [sic] are several people, several strippers; is that right?

A. Yes.

Q. Those are distinct skills themselves; isn't that right?

A. Sure.

Q. A camera person learns his particular skill running the camera or going to an apprenticeship school; is that right;

A. Or on the job.

Q. Or on the job?

A. Uh-huh.

Q. But he doesn't learn generally more than one skill, he learns how to run the camera; is that right?

A. I would imagine, yes.

Q. And the strippers have a particular skill themselves, and that skill even varies with respect to what kind of a press it is, what kind of procedure that – what find of equipment you have and so forth; isn't that right?

A. I wouldn't think so. I think four-color [p. 82] stripping is four-color stripping if you're doing it for a web press or if you're doing it for a sheet-fed press. It's the same function.

Q. If you're doing it for offset lithographic it's different than if you're doing it for some other king [sic] of a printing method; isn't that right?

A. I don't think so.

Q. You don't think so?

A. I don't think so.

Q. In any case, you're running basically four-color offset –

A. Yes.

Q. – web press; is that right?

A. Yes.

Q. And performing the stripping function –

A. Yes.

Q. – is learned over a period of time or going through an apprenticeship school; is that right?

A. Yes.

Q. And I suppose there are some people who can do both camera work and stripping work, but generally people do one or the other; isn't that right?

A. Not in my plant. Everybody does everything. They do stripping. They have the ability to shoot. They do the plating. They have the ability to proof.

[p. 83] Q. So what you're saying is that in your plant the strippers can do camera work; is that right?

A. Yes.

Q. And can the plater do camera work?

A. Yes.

Q. So everybody in that particular group has some interchange of skills; is that right?

A. Yes.

Q. And that's through working together or prior experience?

A. Right.

HEARING OFFICER: Excuse me. Can somebody define for the record what the difference or distinction is between a "stripper" and a "plater," so we understand a little bit?

BY MR. McCLOW:

Q. Sure. Why don't you describe – well, first of all, the camera work is basically where they take the art work and take a picture of it and make a negative or a postive [sic]; is that right?

A. Yes.

Q. And in your shop they make a negative; is that right?

A. Yes.

Q. And then that negative is taken to a [p. 84] stripper who then lays that on a plate and focuses a light on it; is that right?

A. No. The negative goes to the stripping department. They then, if it's four-color, then strip the color into where it belongs.

Q. Now, when you say "strip the color into where it belongs," tell me what you mean by that.

A. Well, if you have this handbook and you want – it's black and white, that's a negative laid on a plate and printed, that's black and white. The stripper, all it does is tab it and it runs.

Four-color, if I wanted NTA Graphics in black, these stripes in red, yellow, blue, they would take this, lay it down with that negative, knock out each color independently.

Q. Well, how would they do this, with a knife?

A. With maskings, with X-acto blade and maskings. They then – they separate the colors. Okay, then now you

have four maskings to create, red, yellow, blue, black. That then goes to the plating department to be plated, and then you would have to – on my press you would put it on four units and plate red, yellow, blue and black.

Q. In other words, stripping is called stripping out the different colors basically, is that [p. 85] what they do?

A. Yes.

Q. And the plate maker – that's where I was getting confused I expect. Now how do they make the plate?

A. The plate maker takes the flats created from the stripper, okay, the four sheets, lays them down independently on a plate, burns the plate, develops the plate, bends the plate, and then they give them to the pressroom.

Q. And that's some sort of a photo-mechanical process, to burn the plate?

A. Overhead light, right.

Q. And the plate is a sheet of metal, a very thin sheet of metal, isn't it?

A. It's aluminum metal. Metal, yes.

HEARING OFFICER: Now I know. Thank you.

BY MR. McCLOW:

Q. All right. But each of those particular functions are a separate skill, and some people have more than one skill; is that right?

A. Yes.

Q. Now the plater after burning the plate, you say, gives it to the pressroom. What she actually does, she puts it in a cabinet in the pre-press area; [p. 86] is that right?

A. Yes.

Q. And with that plate there is – is there any –

A. Paperwork.

Q. – paperwork?

A. Yes.

Q. What is the paperwork?

A. The paperwork is the job ticket, the skid labels, the bundle tags that the pressroom needs to – you know, if you have a pallet with 30,000 items on it and there's 60,000 items for the run, you have two tags, each one of them would have 30,000 on it, Tag 1 of 2, Tag 2 of 2.

Q. And that tag would go to the pallet at the end –

A. Right. As –

Q. – and the jogger would put the –

A. As the pressman fills up the press, when it hits 30,000 they put a tag in it and the material handler takes it out, puts a new pallet down and they fill up a second one.

Q. This paperwork also indicates, besides the press run, the size of the paper; is that right?

A. Yes.

[p. 87] Q. And what generally happens is the material handler brings that size of paper into the pressroom.

A. Yes.

Q. And he gets that information off this paper?

A. Job ticket also, right.

HEARING OFFICER: Who prepares the job ticket again?

THE WITNESS: The composition department. The job ticket has all the pertinent information. The skid label is basically a repeat of the information. It doesn't say color, size and colors configuration, but it says web size, web grade, where it's going, how many pieces are on the pallet, if it's half full, three-quarters full, cut, trimmed. It tells everything on the ticket.

BY MR. McCLOW:

Q. The composition employees fill out the job ticket and attach that to the art work basically, which then goes to the camera room?

A. Uh-huh. There's an envelope created, job ticket, job envelope. Inside that job envelope are five press runs for the pressmen if we're going to go five out; the shipping department gets a copy of it; the plant super gets a copy of it; pre-press gets a [p. 88] copy of it; plating gets a copy of it. So everybody gets a copy. It goes to the camera, and then as it – it gets dispensed from there.

Q. Okay. But the composition room doesn't send one to each department; the person in the composition room puts it on the –

A. That's only for the pressroom. The preparatory department issues the pressroom press run. Caroline – or

the composition department goes ahead and issues two stripping, two pre-press – well, it goes in with the pre-press package, but two pre-press –

Q. I guess what I'm trying to say is that the composition room doesn't have a direct – doesn't take this job ticket out to the pressroom.

A. Not to the pressroom, no.

Q. The job tickets goes into the pre-press area along with –

A. The mechanicals.

Q. – the job, the mechanics, and then it's attached to the plates.

A. Right.

Q. And when the pressman comes in to pick up the plate, that job ticket is there.

A. Correct.

Q. Then he knows how to run the job.

[p. 89] A. Right.

MR. McCLOW: Now, at this time I'd offer Petitioner's Exhibit 1 into evidence.

HEARING OFFICER: Any objections, Mr. McCarthy?

MR. McCARTHY: No.

HEARING OFFICER: Hearing no objections, Petitioner Exhibit No. 1 is now received into evidence as Petitioner Exhibit 1.

(The document above-referred to, heretofore marked Petitioner's Exhibit No. 1 for identification, was received in evidence.)

HEARING OFFICER: Excuse me a second. Mr. McCarthy, do you want to enter your exhibits into evidence at this time, or do you want to wait for any reason?

MR. McCARTHY: No, I might as well do it now. I intended to wait, but as long as we are on the issue, yes, I would move admission of Employer Exhibit 1 and Employer Exhibit 2.

HEARING OFFICER: Okay. Any objections, Mr. McClow?

MR. McCLOW: I don't have any objections to their admission other than I certainly don't want [p. 90] the fact that these are all on one sheet to indicate any approval that they should be all one unit.

HEARING OFFICER: Okay. That's the understanding then, and it's clear that the fact that the Employer submits an exhibit listing everybody it employs, it doesn't mean that you agree that should be the whole unit, obviously.

Okay. I find that the witness has laid and established a proper foundation, and Employer Exhibits Nos. 1 and Employer Exhibit No. 2 are hereby received into evidence.

(The documents above-referred to, heretofore marked Employer's Exhibits Nos. 1 and 2 for identification, were received into evidence.)

HEARING OFFICER: I believe the Board Exhibits 1, 2 and 3 have been received into evidence, so if they are not they are hereby received into evidence. Okay.

I believe we've covered everything except the Joint Employer Exhibit, which is the diagram of the Employer's facility.

MR. McCLOW: Since it's a Joint, I expect you can just receive it into evidence.

[p. 91] MR. McCARTHY: Yes.

HEARING OFFICER: Okay. We might as well receive Joint – Employer's and Petitioner's Joint Exhibit No. 1 is also received into evidence at this time.

(The document above-referred to, heretofore marked Employer's and Petitioner's Joint Exhibit No. 1 for identification, was received in evidence.)

BY MR. McCLOW:

Q. Now, I'd like you to look at Petitioner's Exhibit No. 1 and tell me if there are any similar manuals that are given to the camera person.

A. No. Operating manual on the processors only.

Q. He's given an operating manual for – with respect to his particular camera?

A. I don't know if there's one on the camera itself, just on the processors for the camera and the plate processors in the department.

Q. So he gets a separate manual for things that are relevant to his particular job; is that right?

A. Yes.

Q. And with respect to the strippers, are they [p. 92] given any manual or – they don't have any manual at all about how to operate their job?

A. No.

Q. What about the plater, does she have a manual of any kind?

A. Just on the equipment itself.

Q. What equipment would that be?

A. The light table and the plate processor, and the Carlson bender.

Q. Those are things that –

A. It would be the same thing as the manufacturer would give us, as Harris did on this.

Q. All right. But it would have to do with the specific job that she was doing, and the specific equipment she was running; is that right?

A. The specific equipment, right.

HEARING OFFICER: Would that be akin to like an owner's manual, if you buy a TV a something?

THE WITNESS: That's basically what this is.

HEARING OFFICER: Okay.

BY MR. McCLOW:

Q. This, Petitioner's Exhibit No. 1, of course, is much more in detail.

A. It tells you how to maintenance the press and everything, yes, it goes right on through it, and [p. 93] the other manuals for the pre-press, preparatory department are similar.

Q. Okay. But they're much smaller; is that right?

A. Yes, but the equipment is smaller.

Q. Yes. Much less complicated to operate those pieces of equipment; is that right?

A. I would think.

Q. Now, the three truck drivers that are listed on Exhibit No. 1, Company Exhibit No. 1, those are over-the-road truck drivers?

A. Over-the-road in what respect? They go to Detroit and they go to Cincinnati.

Q. Out of the plant, on the road?

A. Yeah. Okay.

Q. They don't drive a truck within the confines of the building or the premises, other than to back up to the loading dock?

A. Correct.

Q. Now, with respect to the material handlers, they drive, like we said, two different kinds of fork – or two kinds of lift trucks, a forklift truck and a clamp truck; is that right?

A. Yes.

Q. Are they given any on-the-job training?

[p. 94] A. Some of them have a license. Some of them are taught on the job.

Q. So you either hire people with a forklift license or you train them on the job?

A. They're trained, right.

Q. Janitors, that's an unskilled job; is that right?

A. Correct.

Q. Now, with respect to the press mechanic, did that person have any experience before he was hired, this Richard Mossing?

A. He was a mechanic in a different type of press operation, not printing newspapers. He was a machine die – tool and die type person.

Q. You're talking about a metal press where they –

A. Right.

Q. A stamping press or something.

A. Right.

Q. And he learned his mechanical skills before he –

A. Came.

Q. – came to you?

A. Uh-huh.

Q. NTA. And he applied those skills to the [p. 95] machines that are at NTA; is that right?

A. Yes.

Q. And I assume that the printing presses are run on a variety of electrical and hydraulic systems; is that right?

A. Correct.

Q. And those systems would be perhaps similar in some ways to the –

A. To what he was using

Q. – experience he had before; is that right?

A. Right. For a period prior to my actual hiring of Richard Mossing, he worked with National Newspaper Machinery, Incorporated, and received his general overview of presses working with John Dean.

Q. He did that so that he could come to work for you?

A. No. He worked for John Dean, and then when John Dean left I hired him.

HEARING OFFICER: Who is John Dean?

THE WITNESS: John Dean is National Newspaper Machinery, Incorporated. he was the person that for – up until December of this year did our mechanical work, installation, electrical on the presses.

[p. 96] BY MR. McCLOW:

Q. Okay, let me see if I've got this straight.

John Dean was –

A. Outside contractor.

Q. – an outside contractor that worked on the presses.

A. Right. He did the –

Q. And Mr. Mossing, the press mechanic, had worked for a time with Mr. Dean when he was an outside contractor.

A. Right.

Q. And Mr. Dean, did he quit or just –

A. He left.

Q. He left?

A. Uh-huh, my employment. Our agreement, it ended.

Q. The contract you had with him terminated.

A. Right.

Q. And when that happened, Mr. Mossing was hired as an employee?

A. Right.

Q. To do the same job he'd done as an outside contractor?

A. Right.

Q. Now, going back to the composition room, or [p. 97] going to the composition room, we have a dispatch/layout person.

A. Uh-huh.

Q. And you have a typesetter/layout person. Can you just basically describe what a layout person does?

A. He – the layout typesetter, we'll start with her. I get the mechanicals on Monday night, we're on this basis,

and it's not a release mechanical, it doesn't release until Tuesday morning.

Tuesday morning comes, corrections come in. Mr. Skwiera takes them, takes come on the flat, takes them to the typesetter, she sets the type. She then inserts the corrected type into the mechanicals and then goes to the camera room.

Q. Okay. Let me try to see if I can make this so I can understand it a little better.

You get a piece of art work or something from the client, something that they want you to print for them.

A. Right.

Q. And they may have some handwritten things on it if they've got some –

A. It's basically typeset.

Q. Is it typeset before it comes to you?

[p. 98] A. Yes. Mechanicals come to me.

Q. Okay.

HEARING OFFICER: This art work is called the mechanical?

THE WITNESS: Right. Yes.

HEARING OFFICER: Okay.

BY MR. McCLOW:

Q. All right. So basically it's typeset before it gets to you; is that right?

A. Right.

Q. And if there's some corrections, that's what your typesetter does?

A. Corrects it.

Q. Okay. Now, where would this, these mechanicals be typeset? I mean before they get to you?

A. They're typeset in – Kroger Detroit typesets their own; Cincinnati typesets their own; Erb Lumber typesets their own; Great Scott is typeset at a Southfield Advertising Agency, as is Abner Wolf.

Q. Is that any connection with NTA?

A. That's my brother. It's not connected, a separate business.

Q. All right. So, in effect, what you have is, you have two people in the composition room who take all the typeset material and correct that.

[p. 99] A. Uh-huh, and page it.

Q. And page it.

A. Uh-huh.

Q. It's already laid out basically then?

A. Right.

Q. By the time it gets there. In some instances all you have to do is page it?

A. Some instances, yes.

HEARING OFFICER: What does "page it" mean?

THE WITNESS: It's various versions. If this employee handbook was good for two companies, Page 1 would have a "Page 1" on it and have a "1A."

HEARING OFFICER: Okay. In other words, you give it a designated page for each typeset –

THE WITNESS: Right. That information is also on the job ticket because these versions, these things that we print have up to 20 different versions on eight pages.

HEARING OFFICER: Okay. Thank you.

THE WITNESS: Not everything that comes to me is released when I receive it.

BY MR. McCLOW:

Q. What do you mean, "released" when you receive it?

A. Well, we do grocery work. Okay. Some [p. 100] accounts come in ready for the press – go with it, run. Other accounts want to see from the Dyluxe, from the negative Dyluxe that's made after the camera room, they want to see – actually, it's a press proof but not the printed press. We want to see what we're going to print. They okay it, we go to press with it.

Q. Sometimes you get the mechanicals in and you just go ahead and print them and then deliver them without any more customer involvement; is that right?

A. Right.

Q. Then other times a customer wants to see –

A. The majority of the time the customer wants to see before I go to press. It varies by account.

Q. But most of – do you do any business at all where the mechanicals are not typeset before they get to your plant?

A. We do minimal typesetting in our facility for outside source.

Q. Now, when you do typesetting, is that done on a computer?

A. Yes. It's a computer typesetter.

Q. And it's basically a keyboard setup?

A. Right.

Q. And if it's wording or something, they'll type up the wording, that's basically all you can do [p. 101] there, is that right, just –

A. Well, it's typesetting, and then it gets put into a computer, and the computer puts it into the processor, and you put the film into the processor and you get the printed –

Q. But mostly all you do is printed material?

A. Right.

Q. You don't do any graphics?

A. We do limited typesetting for customers. If someone wants a business card or someone wants an invitation or a typeset menu, we do limited typesetting.

Q. But no graphics?

A. Graphics meaning?

Q. Pictures?

A. Not really, no.

Q. Okay. If you do a Kroger insert, there are going to be pictures of carrots and vegetables and so forth; is that right?

A. Yes.

Q. You don't create those images?

A. No.

Q. Those are already typeset or whatever before they get there?

A. We have a master book of photographs, as they do up there. They lay in a photograph with a [p. 102] number on it, we pick the photograph out of the file and put it in. But we don't draw or we don't design it, no.

Q. I see.

[p. 103] Q Now, the people in the composition room, the person who is a typesetter, Yvonne Sargent, was she trained as a typesetter before she was hired?

A Yes.

Q And, the dispatch-layout person, was that person hired or trained?

A 16 years experience when she came to me.

Q Now, you said that the – you've got two people in maintenance who work as press mechanics, Mossing and Mulherin?

A Right.

Q They do some of their work in what's called the maintenance and rebuilding area. Is that right?

A Yes.

Q That's where they rebuild presses for insertion into your press line?

A They repair the counterveyors. They do press rebuilding. They do repair – press repair in the back. That's where the machine shop is. That's where the inventory area is.

Q That's where the tools are?

A That's where their – well, yeah, basically, their –

Q Do they have hoists in there?

A Yes.

[p. 104] Q So, in order to do some of the repair, the equipment has to be taken back there. Is that right?

A Yes, we've not taken any press units in the back out of disconfiguration since they've been put in. We've only added to this room.

Q All right, so, when you've rebuilt presses, you've added rather than replaced. Is that what you're saying?

A Well, we started with an eight unit press here. We put four on. We put four on. We put eight on, and, we put four on.

Q But, you never took any one that was defective out and put another one in?

A No, we sold a new printer that was on the end of the 12 unit line that we hadn't used in two years.

Q So, basically, what people are rebuilding with respect to rebuilding units, and butlers, or whatever, is to

bring what you purchase into the rebuilding area, rebuild it, and, then put it in the press room. Is that –

A Either in the press room or for sale.

Q So, some of the job duties of the people in the maintenance category is to rebuild press units for sale to other places. Is that right? Rather than for [p. 105] use in the shop?

A Yes. We haven't sold anything yet, though.

Q That's part of your plan?

A That's part of the plan.

Q And, you have things on sale that have been rebuilt?

A We've had offers on equipment. We haven't gone out for – to put it on the market.

Q But, you have pieces of equipment in the shop that are not being used in the production of your product that have been rebuilt?

A We have excess equipment, yes.

Q And, some of that you are intending to sell if you get the right offer?

A Everything's for sale.

Q That's the purpose of this is what I'm saying.

A The initial purpose of the rebuilding area is to rebuild equipment for us first, secondary for sale.

Q Now, you said the press operator responsible for routine maintenance and light maintenance. Is that right?

A Yes.

Q If there is something beyond his ability, [p. 106] since he's not a mechanic, then he goes and gets a mechanic. Is that right?

A Yes.

Q And, then, the mechanic comes into the press room and tries to fix it there. Is that right?

A Yes.

Q The material handlers don't load the paper in the presses. They just bring it in the press room. Is that right?

A On ocassion, [sic] they load the roll.

Q And, that's a process of putting a cylinder through the paper roll – a metal cylinder?

A Yes, sir.

Q Would that be when you were busy – when the press operator was busy?

A Yes.

Q That happens fairly infrequently. Is that right?

A I couldn't tell you. I'm not out there. I know that it happens.

Q Now, we talked about this a little bit, in the stripping department there are cabinets. Those cabinets are marked according to presses. Is that right [Illegible] Is there an indication on them?

A They're marked by folder, yes.

[p. 107] Q So, a particular pressman would come in and look in a particular place where his plates would be. Is that right?

A Yes, they're not supposed to take them out without being – they're not supposed to take something without it being issued to them. There's also a window over that cabinet that they talk through.

Q So, there's a window that they – when they want to get the –

A When they want something.

Q – the plate. The go to the window.

A Uh-huh.

Q And, say, "I need a plate." The plate is passed to them. Is that right?

A Yes.

HEARING OFFICER: Who passes it to them?

THE WITNESS: The plate maker.

HEARING OFFICER: Which is in what department, preperatory [sic]?

THE WITNESS: Preperatory, [sic] pre-press.

HEARING OFFICER: Pre-press, okay.

BY MR. MCGLOW [sic]:

Q Well, let's just get the area where the window is, then.

A This area here (indicating) that you have [p. 108] labeled "plates". It's a large black cabinet with a large

window over the top of it just about the same size. There is a telephone here also. In the beginning the telephone was on the outside. They phoned in.

Q So, in the beginning, the contact was made – in order to get the plates, they had to call into the pre-press?

A Right.

Q And, now, there is a window. They can – they go up there and say, "I want a plate."?

A I'm running folder 1B, right, give me my next run.

Q The plate maker takes it and gives it to the press-man. The pressman goes back to the press.

A Yes.

Q Inside this area –

A That's a –

Q Okay.

A That's on an initial order. Now, like, if you come in, you put those four plates on and you put two of them on backwards. You come back up and reorder the plate. The girl normally takes them out to the press.

Q Okay, we'll get to that in just a second.

[p. 109] A Okay.

Q Would the press operator – takes the plates, puts it on the press, begins the run. Is that right?

A Right.

Q And, when he begins the run, one of the first copies that comes out is supposed to be taken back –

A Yes.

Q – to the pre-press area. Is that right?

A Yes.

Q And, it's generally taken back by a jogger. Is that right?

A Yes.

Q The jogger is taking this stuff off the folder, he takes one of the first ones out so that they –

A The press is not up to speed at that time. It's the first readable copy.

Q He takes the first readable copy, hands it across the window to the plate maker, it's proofed, and, if there is something wrong with it, the people in the pre-press area say, "Stop the presses.".

A Right.

Q The pressman stops the presses, takes off the plate, takes it back to the pre-press area.

[p. 110] A Well, the plates get disposed of. They just – whatever the error was, a new plate would be generated.

Q A new plate's generated, and, either the pressman goes and pickes [sic] it up, or, the pre-press person brings it to the pressman when it's done. Is that right?

A Yes.

Q The only real contact between the pre-press area and the press room is the delivery of plates back and forth. Is that right?

A Unless there is a problem on the press, the registration is not right, something's wrong, they come in and try to work it out on the table and find out where the problem is.

Q The pressman comes in and works on the tables?

A Uh-huh.

Q Now, are you aware of any signs in the pre-press area that say something like, no press employees beyond this point?

A Yep.

Q Is that right?

A Yeah.

Q There are two signs there. Aren't there?

[p. 111] A There are signs there.

Q So, the press operators are not supposed to go into the pre-press area. Isn't that right?

A They're not supposed to, yes. It's not to say that they don't. Those signs, by the way, are on the doors leading into the front office, which is carpeted.

Q Isn't there also a sign going into the pre-press area? There's two signs. Isn't that right?

A They're both on the same door leading into the front office area.

HEARING OFFICER: And, were you aware that the signs, now – Joint Exhibit Number 1, where – okay, we're looking in the southern portion of the building. And, we're looking at where the pre-press, I think, what does that say? C –

THE WITNESS: Computer.

HEARING OFFICER: – computers are located. There's like a open space, and, they're in there. Is that where that –

THE WITNESS: The diagram is in error in that this entrance here (indicating) is enclosed to this wall. This wall (indicating), there's a double door here. (indicating) There's a double door here. (indicating) This is where the signs in question are.

[p. 112] HEARING OFFICER: Okay.

THE WITNESS: On the direction to leave.

HEARING OFFICER: Okay, you say the door, a couple of feet in from where the door is?

THE WITNESS: It's eight foot in from that door.

HEARING OFFICER: Okay, eight feet in, we're going to draw that in there.

THE WITNESS: Okay.

HEARING OFFICER: A door drawn in in [sic] ink with an arrow pointing to it from the south, that says, "door".

THE WITNESS: In this area here (indicating), in the pre-press department on this door, there is also a sign, no pressmen beyond that point.

HEARING OFFICER: And, that's right at the end of the place where it says, "computers"?

THE WITNESS: Right, this is all a tiled area through here (indicating).

HEARING OFFICER: And, that's a door into the pre-press area. Is that right?

THE WITNESS: It's the door from the composing area right into the pre-press door.

HEARING OFFICER: And, so, there are two signs, one here (indicating) –

[p. 113] THE WITNESS: Two there.

HEARING OFFICER: Two, where it says, "door".

THE WITNESS: Uh-huh.

HEARING OFFICER: And, then, one –

THE WITNESS: Up here. (indicating)

HEARING OFFICER: – at the door between – where it says, "computers", going into the pre-press area from west to east. Is that right?

THE WITNESS: Yes.

BY MR. MCGLOW [sic]:

Q In other words, it's clear that pressmen, based on the signs, are not to enter the pre-press or preperatory [sic] area?

A They're not to enter the front office area.

Q The front office area at all?

A That's right.

Q Period, from any direction, any way, right?

A Uh-huh.

Q Okay.

A They're full of ink. I do the carpets once a month.

HEARING OFFICER: Oh, I see. Is that the rational [sic] behind the reason, because of the inkyness of their job?

THE WITNESS: That's right, the condition of [p. 114] their job.

BY. MR. MCGLOW [sic]:

Q Okay, and, that's something that's unique to the pressmen. They're the only ones that get the ink all over them. Isn't that right?

A The material handlers get dirty too, but, mostly, the pressmen are exposed to it, yes.

Q And, the people in the pre-press are not exposed to ink?

A Other than what the pressmen bring to them.

Q So, the pressmen, basically, are supposed to confine themselves to the plate window, or – is that right?

A Yes, unless there is a problem.

Q Unless there is a problem, now, the pressmen wear a uniform. Is that right?

A Yes, uniforms and boots.

Q And, the pre-press people –

A Civilian clothes.

Q Civilian clothes, is that right?

A Yes.

Q At one point in time, the pre-press people had separate locker rooms inside the pre-press area. Is that right?

A The pre-press lockers are still, to date, [p. 115] right here along this wall. (indicating)

Q Okay, so that's between on the south side of where the indication of door is back towards the hallway there. (indicating)

A No, there is a wall here (indicating), and, there is, you know – this is sealed at this point. (indicating) There is a double door here, a double door here. (indicating) This is sealed. There is lockers in this area.

Q Why don't you draw where it's sealed then?

A Okay.

Q The locker is on the south side of the –

A South side of the pre-press department.

Q Okay.

A Southwest corner.

HEARING OFFICER: Preperatory [sic] employees have their lockers located in their area, work area, right?

THE WITNESS: Yes.

HEARING OFFICER: Do the press room employees have their lockers in any main area? They are located in the locker room?

THE WITNESS: Uh-huh.

BY MR. MCGLOW [sic]:

Q Now, all employees, other than the office [p. 116] employees, and the composition employees, and the pre-press employees, they have locker rooms in the main locker room. Is that right?

A Shipping and receiving, right, the material handlers.

HEARING OFFICER: What about the pallet makers?

THE WITNESS: Pallet maker.

HEARING OFFICER: He's out there, too?

THE WITNESS: He's out there, too.

BY MR. MCGLOW [sic]:

Q Now, the truck drivers have different uniforms then –

A The shirt's the only difference.

Q They have different color shirts than the press room people. Is that right?

A Right. You asked earlier if the pre-press people have an ocassion [sic] to go outside of their area. The plates for the pre-press department are stored in a corner by the employee door.

As I say, this diagram is good for the purpose of discussions.

Q I understand.

A Okay, there is a corner at this door where the pre-press plates are stored, because they're so [p. 117] large and so heavy.

Q So, they go out –

A They go out to this area. (indicating)

Q They go out to the area which is right by the employee entrance?

A Right by their door, the other supplies are stored in the back – in the far northeast corner of the building.

HEARING OFFICER: You are pointing right now, for the reader of this record, on Joint Exhibit 1, he's pointing to the maintenance rebuilding room, the wall located in the northeast corner.

THE WITNESS: Right in this corner, is where the inventory room has been placed. It used to be here (indicating), future pre-press. It was moved out here because of this.

BY MR. MCGLOW [sic]:

Q Because of – you're putting a scanner in the future pre-press. Is that right?

A It's been out there a good six months now.

Q And, the shipping and receiving people would put the supplies there and retrieve the supplies. Is that right?

A I have an inventory person who takes care of that.

[p. 118] Q And, that is who?

A That's Bob Mulherin, the secondary mechanic.

Q all right, so, Bob Mulherin, who you've got listed in the maintenance department, he is responsible for taking supplies –

A Keeping track.

Q – keeping track of the supplies, and storing supplies, and bringing them out when they're necessary?

A On ocassion [sic] – well, he delivers the plates because of the size, but, other than that, he – pre-press generally requisitions it, and, Chris would take care of getting the supplies in the morning. Chris Callaghan, which is in the pre-press department, he usually get's his own.

Q He would go back to the maintenance in the rebuilding area?

A Back to the area, right, and brings the supplies out.

Q Now, you said, I think, that the office employees didn't sit in the cafeteria, but, they'd go in and get their pop, or coffee, or whatever. Is that right?

A Yes.

[p. 119] Q Does that aiso apply to the pre-press people?

A No, pre-press people eat out their on ocassion. [sic]

Q On ocassion [sic] they eat out there?

A There's also a picnic table out front of the building for the summer that they all eat from. It's a general area, a common area.

HEARING OFFICER: The front of your building is the southern portion, right, that's the –

THE WITNESS: Yes.

HEARING OFFICER: Okay.

BY. MR. MCGLOW [sic]:

Q Now, you testified about the employee handbook which is Company Exhibit Number 2. Is that right, or Employer Exhibit Number 2?

A Yes.

Q And, you indicated that each employee was given a copy of it? Is that right?

A Yes, that handbook was issued 5-29-87.

Q I'm going to get into that. As a matter of fact, that was my next question.

When was this employee handbook distributed?

A It was issued 5-29-87.

[p. 120] Q And, you say it describes the rules governing the employees in the various departments that we're dealing with today?

A Yes.

Q Did it change – did this handbook change any of the rules that had been in effect prior to May 29th?

A No, it just put it in black and white.

Q It sort of codified the rules that were in existence?

A Yes.

Q Where there any prior documents, similar documents to this booklet that NTA had before May 29th?

A No.

Q How long had this particular booklet been in preparation?

A Over seven months.

Q And, who was responsible for preparing it?

A Myself, my father, out [sic] legal attorney.

Q And, what you were trying to do is just put into writing what had been the unwritten rules of the company. Is that what you're saying?

A Yes, in black and white as to what the employees had repeatedly been asking.

Q The employees had asked for something like [p. 121] this, and, you decided to put it in writing?

A Yes.

Q Have you got a copy of this in front of you?

A Yes, I do.

Q Did you have this printed in your plant?

A No, I didn't.

Q I was going to say, somebody left out the page numbers on it.

A It wasn't intended to have page numbers.

Q It makes it a little bit more difficult here, but, we'll try to get through this.

A Okay.

Q On the page that has the disclaimer on it.

A Okay, the second page.

Q It's got the disclaimer on the left hand side, and, then, on the bottom of the right hand side, it says, "Your supervisor".

A Uh-huh.

Q Now, you have supervisors for the different departments?

A We have people in control.

Q And, you call those people group leaders on this Exhibit Number 1?

A Yes.

[p. 122] Q Now, in this particular paragraph, it says about the supervisor, that, and this is a quote, "He has responsibility and the authority to make important day to day decisions in the department of his jurisdiction".

A Uh-huh.

Q Now, are you talking about the group leaders when you're talking in that particular sentence?

A Yeah.

Q And so, in this booklet, you call those group leaders supervisors. Is that right?

A Yes.

Q So, we have, in other words then, a group leader or supervisor over shipping and receiving. Is that right?

A Randy Perdue.

Q Yes, and, we have the same type of a person, group leader or supervisor, in the pre-press area. Is that right?

A Yes, Beryl.

Q Beryl Grisier?

A Yes.

Q Does Beryl also supervise the composition room?

[p. 123] A No.

Q Do you have a supervisor or group leader there?

A No, it acts on my direction.

Q So, you're the supervisor of that?

A Uh-huh.

Q In the maintenance department, does Mr. Mossing work pretty much by himself with Mr. Mulherin?

A They act on my direction.

Q So, you're the supervisor of the press mechanics. Is that right?

A Yes, they turn in daily sheets.

Q I see, so, you know when a new unit comes in, because you brobably [sic] buy it, right?

A Uh-huh.

Q Then, you give it to them, and, you want to know what's going on?

A Right.

Q Who do the janitors report to?

A Mr. Skwiera or myself.

Q Now, Mr. Griener, who does he report to?

A He works with the – he works by himself.

Q So, he's just making pallets until somebody tells him to stop. Is that right?

A That's right, he does about 90 a day.

[p. 124] MR. MCGLOW [sic]: Would anybody mind if I took about a 15 or 20 minute break at this time?

HEARING OFFICER: Any objections, Mr. McCarthy?

MR. MCGLOW [sic]: I've got to get something in my stomach.

HEARING OFFICER: Hearing no objections, we'll go off the record.

(A short recess was taken.)

HEARING OFFICER: Back on the record.

Mr. McGlow [sic], you may proceed.

BY MR. MCGLOW [sic]:

Q I'd like you to continue looking at the handbook, which is Employer's Exhibit Number 2, on the next page

after the one we were looking at before, at the bottom left hand corner there, the hours of work.

A Uh-huh.

Q It says in there, I'm going to paraphrase it and I'll ask you if you agree with me, that NTA operates on a wide range of various schedules, because of the varied duties of the departments within NTA. Is that right?

A Yes.

Q And, it says each department sets it's [sic] hours as needed to meet work and deadline requirements. [p. 125] Is that right?

A Yes.

Q It also says here that a supervisor will keep you advised as to what hours you will work. Is that right?

A Yes.

Q Now, with respect to the, what we've been calling the pre-press area, is the supervisor that you're referring to in the handbook, Mr. Grisier, Beryl Grisier –

MR. MCCARTHY: I'll object to that question. I think, actually, it was at the outset it was the Petitioner that took the position that supervisory responsibilities, in particular persons, were not an issue here today. I assume that it was not an issue in my line of questioning, and, I think it would be inappropriate, and, it's irrelevant to this proceeding at least as the issues were cast by the Petitioner.

MR. MCGLOW [sic]: Well, I fully disagree, that the reason I'm asking these questions is because one of

the factors involved is separate supervision of separate duties, separate schedules. Those are the factors that the Board looks at. And, to that extent, I'm going to go into it on this cross examination.

I'm certainly not making this record for a [p. 126] challenge later on. We'll make that record later.

MR. MCCARTHY: Well, I think if the question is separate schedules, or whatever, we can ask about schedules. I don't know the need to talk about whether the supervisor sets the schedule or not. That goes to a supervisory issue, not the unit issue.

MR. MCGLOW [sic]: Okay, well, I'll ask some questions, then. You can rule on the objection if you want to.

HEARING OFFICER: Is it your position that Mr. Grisier is a supervisor as defined in the act?

MR. MCGLOW [sic]: No, my position is whether Mr. Grisier is the person referred to in the sentence, "Your supervisor will keep you advised as to what hours you will work.".

HEARING OFFICER: Okay, because, I mean, if the Parties want to raise a supervisory issue, we can resolve that here at a hearing, too. But, if a –

MR. MCGLOW [sic]: Well, like I said before, that issue doesn't need to be decided here, if in fact, certain units are not included – certain departments are not included in the unit.

HEARING OFFICER: Uh-huh.

MR. MCGLOW [sic]: I'm just going into the scheduling area that was brought out on direct examination about the [p. 127] various schedules in the various departments. I'm going to go into that area. That's what I'm doing now.

HEARING OFFICER: Okay.

MR. MCGLOW [sic]: I have to talk about supervisors tangentally [sic]. That's all, or group leaders, or whatever we want to call them. I'll call them group leaders for the purposes of the proceeding. It doesn't matter to me, but, the handbook talks about supervisors. And, I want to find out who sets the schedules for whom and where they're posted; if they're posted in the same area of the plant, different areas of the plant, and so forth.

HEARING OFFICER: Okay.

MR. MCGLOW [sic]: We're dealing with location. We're dealing with contact. We're dealing with all sorts of issues.

HEARING OFFICER: Keeping that in mind, okay, I'll overrule the objection, and let – permit you to persue [sic].

MR. MCGLOW [sic]: All right, I'll ask the question in a different way.

BY MR. MCGLOW [sic]:

Q Is there a separate schedule that's posted in the pre-press area for pre-press employees?

A Yes.

Q And, is that prepared by a person who works in [p. 128] the pre-press area?

A It's prepared by him and reviewed by me.

Q Okay, prepared by Mr. Grisier and reviewed by you? Is that right?

A Yes.

Q And, is that changed on a week to week basis?

A Yes, it is.

Q And, every week is posted. Is that right?

A Yes, it is.

Q And, that's the way it's been for a long time?

A Yes, it is.

Q Who sets the hours for the composition employees?

A She sets her own based on –

Q When you talk about, she, you're talking about?

A Caroline.

Q Caroline Hickman.

A Based on my telling her when the work will be here.

Q And, is that set on a week to week basis?

A Every week varies.

Q Now, who establishes the schedules for the press room?

A Mr. Skwiera and myself.

Q And, basically, you testified, I think, that you were running two shifts at the present time.

[p. 129] A At the present time, yes.

Q And, I think you said you were running one eight hour shift at the beginning of the week and then three 12 hour shifts?

A Right.

Q For the next three days.

A Right.

Q To make 44 hours.

A Uh-huh.

Q Is that right?

A Yes.

Q And, then, you schedule overtime as necessary, if there is any type of overtime necessary?

A Right.

Q And, if there is not overtime necessary, people don't work 44 hours?

A Right.

Q Now, prior to May 29th, you had a different schedule for the prep room employees. Isn't that right?

A Yes.

Q You were running three shifts. Is that right?

A Yes.

Q And, those shifts were how many hours a day?

A Eight.

Q Eight hours a day, five days a week?

[p. 130] A Depending if there was work, normally, four.

Q Okay, it would be four hours –

A Four days a week.

Q – four days a week. And, if there was work, there would be –

A A fifth day.

Q – a fifth day. So, generally, you were running between 32 and 40 hours?

A Yes.

Q Now, that depended on the –

A Work flow.

Q – the work flow. Is that right?

A Yes.

Q Those eight hour schedules were consistent, though, day to day. Isn't that right?

A Yes.

Q Everybody came in at a certain time.

A Right, the only thing that fluctuated is if you worked a Monday, or if you worked a Friday instead,

depending on what came in over the weekend. If we were press-ready Sunday night, you went to work Sunday night. If we weren't press-ready until Monday midnight, you didn't go to work until Monday midnight.

Q All right, but, the first shift, or the day shift, would work, basically, 8:00 to 4:30. Is that right?

[p. 131] A Yes.

Q And, the afternoon shift would work 4:00 to 12:30. Is that right?

A Yes.

Q And, the third shift would work 12:00 to 8:30. Is that right?

A Yes.

Q And, that was a constant. The only thing that changed was whether they worked the fifth day? Is that right?

A Right.

Q As a general rule?

A As a general rule.

Q Now, the reason you went from a three shift operation to a two shift operation was because, in early June, 16 press employees were teminated [sic]. Is that right?

A 16 people quit, yes.

HEARING OFFICER: The 16 people being referred to are at issue in the unfair labor practice. The

reader of the record can characterize it as quit and/or terminated. It's – I don't want to get into –

MR. MCGLOW [sic]: Don't worry, we're not going to get into it.

HEARING OFFICER: Okay, I don't want to get into ULP motivation. I want to skirt that issue.

[p. 132] BY MR. MCGLOW [sic]:

Q Who sets the schedule for the pallet maker?

A Scott.

Q Scott Shaffer?

A Yes.

Q Well, doesn't the pallet maker work five days a week?

A Yes.

Q Doesn't he have a set schedule that's always the same?

A Pretty much, if he's needed out in the press room instead of the pallets, that's where he works.

HEARING OFFICER: The pallet maker, Paul Griener, is he part of the maintenance department, or, is he part of the press room department?

THE WITNESS: No, he's part of the maintenance department.

HEARING OFFICER: He's part of the maintenance department, but, he reports to Scott Shaffer as his supervisor?

THE WITNESS: Yes.

HEARING OFFICER: Okay.

BY MR. MCGLOW [sic]:

Q Now, Scott Shaffer is the press room supervisor?

A Yes.

[p. 133] Q And, he, as the press room supervisor, notes how many pallets are needed, right?

A Right.

Q And, Mr. Griener, basically, works on his own building pallets. But, he comes in on eight hour shifts. Is that right?

A Right.

Q They're day shifts. Is that right?

A Yes.

Q Mr. Mossing and Mr. Mulherin, do they work day shift?

A Yes.

Q And, you have a janitor, basically, available around the clock?

A Yes.

Q I'd like to turn in the handbook to disciplinary procedures.

A Okay.

Q And, it's the next page on the bottom of that, the last paragraph of the disciplinary procedures, just before the smoking section, okay?

A Okay.

Q Got that?

A Yes.

Q The employees in the various departments have [p. 134] designated areas where they work. Is that right?

A Right.

Q And, it's a according to this booklet, it's a prohibited for employees to be out of their designated work area without sufficient cause. Is that right?

A Uh-huh.

Q And, also, it's prohibited, for any employee other than press room personnel to be around the presses. Is that right?

A Yes.

Q And, later, on the same page, production areas, it indicates the various areas for the various departments. Is that right?

A Yes.

Q And, the typesetting department, is that what you call the composition room?

A Yes.

Q Now, art department, is that also the composition?

A Yes.

Q And, the shipping and receiving department is the area where the paper is stored and where the finished product is stored, basically?

A Yes, shipping and receiving, basically, because of the context of the people in there, they have facility to [p. 135] go all over the plant.

Q Well, but, the area where they stay and, they either get the supplies to take them into the various other departments.

A They spend a lot of time in the press room.

Q They spend – the time they spend in the press room is delivering paper –

A Or taking product out.

Q – or taking product out. The press – the shipping and receiving people do not work on the presses, do they?

A No, they don't.

Q They are absolutely necessary for the press room, because without paper, the presses 'cannot run. Isn't that right?

A Correct.

Q And, if they didn't take out the finished product, the presses couldn't run, could they?

A Correct.

(Transcript continued on next page.)

[p. 136] BY MR. MCGLOW [sic]:

Q And, in that same paragraph under production – production areas, it says there, "you are to stay in your department, no one from any department other than Department 000 is to go around the presses – ever!", is that right?

A Yeah.

Q In Department 000 of course is the lighting department, is that right?

A Right.

Q Now, turn to the next page, and under shipping and receiving, do you see that?

A Uh-huh.

Q Now, it says there, that any person hired, the driver will be given a specific set of rules and regulations that apply only to drivers. Then it says, "They will be expected to follow these rules as well as those set out in handbook – this handbook", do the drivers have a specific set of rules and regulations?

A Just the ones issued by the Highway Department.

Q Do you have copies of those that you give to drivers?

A I believe they're in the shipping department, yes.

Q You give any specific rules or regulations to the forklift and plant drivers?

A No, just the safety regulations.

[p. 137] Q And, are they separate from this book, or are they –

A No, they're in the book.

Q All right. And, look at the next column there is some – there are some safety regulations that appear to apply to the forklift –

A Uh-huh,

Q – and plant drivers, is that right?

A Yeah.

Q And, it says, "only authorized persons will operate the forklift (tow motor) and clamp.", is that right?

A Yes.

Q And, the authorized persons are the people that are designated material handlers?

A Yes.

Q On Exhibit No. 1, is that right?

A Yes.

Q And, then on the next page, now on the right hand page, it says, under safety, it says, press and press room, and then there is about that whole column, and then the next page are the safety rules and regulations applicable to the press room, is that right?

A Yes.

Q Can you tell me what a counterveyor person is, you mentioned something about that earlier?

A That's a person that – that's the driver. [p. 138] Counterveyor person.

Q That's the driver?

A Yes.

Q Okay.

A Counterveyor is a machine.

Q And, that's item No. 10, it says, pressman and counterveyor people, then it says "Are the only people allowed past yellow line painted on floor, this area is off limits to personnel from other departments, and to outside visitors.", is that right?

A Yes.

Q Now, go back a couple of pages to the same page where the safety for the pressroom is on the other page, the left hand page.

A Okay.

Q Up at the top it says, "Employees are not allowed out of there [sic] designated work area without proper cause or authorization", is that right?

A Yes.

Q Basically, the – the pressroom has a – a separate set of safety regulations in addition to those that apply to all the departments, is that right?

A Yes.

Q And, that's partly because the presses are somewhat dangerous when they're running, is that right?

[p. 139] A Obviously, yes.

Q And, they're hughe [sic] pieces of equipment that are fairly –

A They're complex –

Q – intricate and complicated and you don't want somebody to screw them up, isn't that right?

A Yes.

Q And, they take a lot of training to learn how to run these things?

A Yes.

Q And, somebody that doesn't know how to run it could do some damage, is that right?

A Quickly, yes.

Q Can you just tell me approximately what a four unit – a four color press is worth or would cost?

A Four unit in the folder?

Q Yes.

A Oh, depending on the condition, anywhere from 35 to a 100 and a quarter.

Q 35,000 to –

A 125,000

Q – 125,000?

A Right.

Q There are no pieces of equipment in NTA that – other than the presses that cost anywhere near that amount of [p. 140] money, are there?

A Scanning – scanning machine.

Q How much does a scanning machine cost?

A $325,000.

Q Okay. And, that's what your putting in, is that right?

A Uh-huh.

Q You haven't gotten that in yet?

HEARING OFFICER: Where will the scanning machine be placed?

THE WITNESS: In this future prepress room, we bought it a year ago. Its [sic] been on the floor –

HEARING OFFICER: Okay, so, that would be – this scanning machine would be used by preparatory people?

THE WITNESS: Yes.

HEARING OFFICER: Okay.

BY MR. MCGLOW [sic]:

Q They would be people who have trained to run that particular machine, is that right?

A Yes, they will.

Q And, will they need special training for that?

A Yes, they will.

Q Other than the scanner that you've – there [sic] putting in there, is there any other pieces of equipment that cost as much a single four unit press?

[p. 141] A Well, you got the tow motors that go out at $12,000, you got semitractors that go out at $25,000 to $30,000, I mean, I – you have the computer system in the front of the building that's worth a $115,000.

Q Okay. That's not a mechanical piece of equipment, that's a electronic piece of equipment, is that right?

A Okay, yes.

Q Now, looking at Exhibit No. – or Employer's Exhibit No. 1, that list obviously does not include the 16 employees who – whose employment has been terminated, and – early June, is that right?

A No, it doesn't, nor does it reflect that the departments these people – these departments list had been changed into the pressroom, the majority of them.

Q The – I'm sorry, I didn't understand what you just said.

A Most of these people that are in these departments have changed, functions into the pressroom due to the lack of people.

Q All right. What you're saying is that since the first of June, some people in other departments –

A Are now in the pressroom.

Q – have been working in the pressroom because of the loss of the 16 employees, that right?

A Yes.

[p. 142] Q Due to the – that the – necessity of the situation?

A Yeah.

Q And, do the people like – oh, let me talk about Mr. Long on the exhibit – on Exhibit No. 1. Isn't he the person who drives a car or a van to make small deliveries?

A Right. The times he's not driving; he's either making pallets or cutting and trimming, or working in the pressroom.

Q When he works in the pressroom he does the unskilled jogger work?

A Unskilled jogger, right.

Q He does that more now than he did before –

A He spends about 16 hours a week in the pressroom on a base 40.

Q That's now, right?

A That's then to [sic].

Q And, that would be when some jogger didn't show up?

A Uh-huh.

Q The time that anybody – prior to June 1, 19 of this year, the only time that somebody would – from another department would work in the pressroom as a jogger, would be when somebody didn't show – when a scheduled person didn't show up, or somebody's on vacation?

A Yes, right.

[p. 143] Q And, since jogging is unskilled job, anybody can do that –

A Generally.

Q – for eight hours, or so?

A Right.

Q To fill in, that right?

A Right.

Q With respect to pay rates, you said maintenance the pay rate was $4.50 to $10.00, is that right?

A Yes.

Q You know who gets $4.50?

A Be the gentleman mopping the floor.

Q The janitors make $4.50?

A And, up.

Q Well, what's the most a janitor makes?

A I think I have one that – $5.75.

Q Is that with a shift premium?

A No.

Q Do janitors get shift premiums?

A Yes, they do.

Q Is that the person who makes $5.75 the person who's been there the longest?

A Yes.

Q The – Mr. Mossing, how much does he make?

A $10.00.

[p. 144] Q And, Mr. Mulherin, how much does he make?

A I believe he's at 6.

Q Mr. Mossing gets paid more because of his experience and expertise?

A Yes.

Q And, Mr. Mulherin, because he's not as experienced?

A Mr. Mulherin worked under John Dean for about two months.

Q Oh, Mr. Mulherin came from Mr. Dean also?

A Yes.

Q In other words, he came from the National Machinery Company?

A Yes.

Q Or National –

A National Newspaper Machinery.

Q So, basically what happened, with respect to your press mechanics, is that you got both of them from the independent contractor, who used to service the machine, is that right?

A Uh-huh, yes.

Q And, the pallet maker you said makes $6.50 an hour?

A I believe so, yeah.

Q In shipping and receiving, which of the employees makes $4.90 an hour?

A I don't know those individuals by rate. I –

[p. 145] Q Okay. Well, let's talk about the material handlers then, what is the rate for the material handlers, what's the range?

A $4.90 to $6 bucks, $6.50.

Q Okay, let's talk about the drivers?

A Drivers are $5.50 to $6.25.

Q All right, let's talk about Mr. Long, what does he make?

A Cecil's – I don't remember if he's at $4.50 or if he's at $4.90.

Q Okay, what about Mr. Perdue?

A Randy's just under $9.00.

Q He's the highest paid person?

A Yes.

Q In that department?

A Right.

Q Okay. In composition you said the range was from $6.00 to $7.50, who makes the $6.00?

A Yvonne.

Q Yvonne Sargent makes $6.00?

A $6.05, yes.

Q And, Miss – Miss Hickman, how much does she make?

A $7.50.

Q All right, in the prepress, how much does Mr. – how much does Mr. Grisser [sic] make?

[p. 146] A $7.70.

Q $7.70?

A Uh-huh.

Q How much does Mr. Smothers make?

A $8.75.

Q Mr. Carter?

A $9.25.

Q Chris Callahan?

A $8.00.

Q Pat Mossing?

A $9.50.

Q Dorsey Doyle?

A She's in the front, out of range.

Q And, a Paul Mullins?

A $7.50.

Q And, Dan Etue?

A $8.25.

Q Now, is this based upon – or – is the differences in these figures based upon there [sic] experience and the time with the company?

A There [sic] background and there [sic] experience. Most of these people been with me three years.

Q Now, is there any difference in the rate of pay between a camera person, and a stripper? I mean in the terms of skill level and –

[p. 147] A No.

Q – and rate of pay?

A No, well –

Q You would pay –

A – Beryl is at $7.50 and you have a parttime camera man at $8 – $8.25, so –

Q A person with similar experience, you would pay similar amounts of money?

A Uh-huh.

Q Well – whether he's a camera man or a stripper, is that right?

A Right.

Q All right, let's go to the pressroom. You said it went from $3.85 to $9.00, is that right?

A Uh-huh.

Q How much does Mr. Hollis Shaffer make?

A Hollis is at $9.50.

HEARING OFFICER: Mr. Shaffer – Hollis Shaffer, okay, I'm sorry. I thought it was Scott Shaffer. Scott Shaffer has been stipulated by the parties in Board Exhibit 2, to be a supervisor, not eligible to vote.

MR. MCGLOW [sic]: That's why I skipped –

HEARING OFFICER: Okay. Thanks a lot, I – I was –

BY MR. MCGLOW [sic]:

Q Mr. John Jackson, you know how much he makes?

[p. 148] A I think he's in the $7.00 range. The next two are $3.85.

A Okay. Let me talk a minute about Mr. Jackson. Did Mr. Jackson do quality control work?

A Yes.

Q And, wasn't that what he was doing before June 1, of this year?

A Yes, he was also helping on the press before June 1.

Q But, his main job is quality control?

A Right.

Q And, he's spent a lot of his time in the –

A Pressroom.

Q – in the pressroom, in the press office as well, is that right?

A More time in the pressroom than in the office.

Q But, he was one of the two people that could use the office on a regular basis?

A Oh, yeah, all the pressmen could use the office.

Q But, they couldn't stay there when the presses were running, could they?

A Not really.

Q But, Mr. Jackson kept his records on quality control in the office, is that right?

A No, it was just outside the office, his area of working is – there's tables set up at the end of 3A, 3B, in [p. 149] main pressroom. There's a viewing booth, and that's where all the store copies, office copies, samples were put.

Q Who did the quality control at this point?

A Mr. Skwiera.

Q Did he do that before to [sic]?

A Yes.

Q And, is Mr. Jackson making the same as a quality control person?

A Yes.

Q Mr. Clark and Mr. Davis you say at $3.85?

A Yes, the next three, I believe, are at $3.85 also

Q Mr. Kollman, Mr. Jones, and Mr. Roberts are at $3.85?

A Right.

Q Mr. Miller?

A He's at $4.15, maybe $4.40.

Q Now, are you including fifth shift or –

A Yeah.

Q So, the $4.40 would be $4.15 plus the shift?

A Yes.

HEARING OFFICER: What is the shift differential, what's the –

THE WITNESS: Midnight is 25 cents, afternoons is 15 cents.

HEARING OFFICER: Okay.

[p. 150] BY MR. MCGLOW [sic]:

Q Mr. Rogers?

A I believe he was at $4.00.

Q Does he jog as well?

A Yes.

Q Mr. Boursaw?

A I believe he's at $4.15.

Q Mr. Dixon?

A $8.00.

Q Mr. Wilhelm?

A Maybe $5.50.

Q Do you put – have Mr. Dixon's [sic] as a parttime pressman, is that because he's got –

A Another job.

Q – another job?

A He works two nights a week.

Q And, was he a trained pressman when you hired him, is that right?

A Yes. He is a pressman now with another plant. He works for a sheet fed pressman. Prior to that he was a web pressman.

Q He running your web press parttime?

A Uh-huh.

HEARING OFFICER: That's web or wet?

THE WITNESS: Web. W-e-b.

HEARING OFFICER: So, they – when you got the rollers of paper, that's web pressing?

THE WITNESS: Yes.

HEARING OFFICER: And, sheet pressing is you get sheets of paper. Okay, I though it was wet, I'm sorry.

THE WITNESS: Nothing wet about it except it –

HEARING OFFICER: Yeah, I was wondering why, I thought you said wet pressing, it would be well, must mean something maybe historically, so that's why I asked.

Okay. I'm sorry I interrupted.

BY MR. MCGLOW [sic]:

Q Mr. Ruckreigle?

A I think he's around $6.80, maybe $7.00.

Q How long has he been with you?

A Going on three years.

Q So, was he a pressman before he came?

A He came with experience, yes.

Q Mr. Rogers?

A Maybe $5.00 within a quarter.

Q Mr. Nagel?

A About $7.00 and a quarter.

Q Mr. Michael Mossing?

A About $7.20.

Q Mr. Danford?

A $7.20.

[p. 152] Q Mr. Cortez?

A $5.50 maybe.

Q And, Mr. Brewer?

A $7.20.

Q I think you said under Direct Examination, that the pay day provisions of the handbook applied to all departments, is that right?

A Uh-huh.

Q It says in the – in the handbook, at that point and time that shift supervisors will distribute the checks on the respective shifts, is that's [sic] how it's done?

A Scott hands out his, Mr. Skwiera usually hands out morning shifts for midnights and day side.

Q And, what about – who hands out shipping and receiving checks?

A Mr. Skwiera would be doing that, maybe Randy does, I'd have to check.

Q Now, how about the – who hands out the pre-press checks?

A I believe Beryl hands them out. Mr. Skwiera might do that also, I'm not sure.

Q And, Mr. Scott here, hands out the checks to the pressroom?

A Uh-huh.

MR. MCGLOW [sic]: Let me just take a couple of minutes [p. 153] rather than stay on the record here, to review my notes.

HEARING OFFICER: Okay. Off the record.

(A short recess was taken.)

HEARING OFFICER: On the record.

MR. MCGLOW [sic]: Oh, I'm sorry, I have no further questions.

HEARING OFFICER: Okay. Mr. McCarthy do you have further questions you would like to persue [sic]?

MR. MCCARTHY: Yeah, a few.

REDIRECT EXAMINATION

BY MR. MCCARTHY:

Q David, I think you were asked to Cross in – and I want to make sure I'm clear on this. Referring to the pressroom, Ron Nagel, is he a trainee, or a pressman?

A Ron Nagel is a trainee.

Q Is a trainee, okay. So, then my account, in the pressroom you have eight trainees?

A Right.

MR. MCGLOW [sic]: I'm sorry, how many was that?

THE WITNESS: Eight.

BY MR. MCCARTHY:

Q Then, we have three pressman including Hollis Shaffer, and excluding Scott Shaffer?

A Including Hollis, one – I'm sorry, what was the number?

[p. 154] Q Three, is that what you come up with?

A One, two –

MR. MCGLOW [sic]: Does that include one parttimer?

THE WITNESS: Are you including parttime?

BY MR. MCCARTHY:

Q I didn't have the parttime included.

A Okay.

Q I got Hollis Shaffer, as one – yeah, I guess you're right, yeah. Three including the parttime?

A Right.

Q The eight trainees, would it or would it not be correct to say that they are basically learning on the job how to become pressmen?

A Yes, they are.

Q Now, in your other areas is it or is it not also accurate to say that your material handlers are learning on the job, so to speak?

A Yes, they are.

Q And, in your maintenance area, is it or is it not fair to say that the mechanics are learning on the job as they go?

A Yes.

Q And, would the same also be true of your people in the composition area, your strippers and platers? Or I'm sorry, the people in your prepress area, your strippers and [p. 155] platers? They're learning on the job too?

A They have a lot of experience behind them, but they always – yes, they're learning.

Q Now, I believe your testimony was that the jogger position, that's an unskilled job?

A That's unskilled, yes.

Q Now, you testified on Cross Examination, about what the jogger does, and that he then stacks – stacks the product and the papers. Once they're stacked what happens with then them?

A He put the label onto the pallet, and then the material handlers would come and take it away. And he'd make ready for the next pallet to – to start stacking it.

Q When the material handlers come to take the pallet, where is the pallet located – located in relation to the presses?

A Right next to it, right off the end of the counterveyor, as far as the finished product. The empty pallets are in the middle of the folders – out – outside of the press.

Q You mentioned something on Cross Examination about the pressman would occasionally enter the front office, if there's a problem. Could you describe the circumstances under which a pressman would enter the front office?

A The front office, or the prepress area?

[p. 156] Q I'm sorry, the prepress area?

A The pressman that come into the – prepress area if there was a registration problem or they weren't making it fit on the press. They didn't come in on a frequent basis, but they were up front when there was problems that they couldn't solve on the press.

Q Okay. And, when they came into the prepress area, what did they do, once they got there to correct these problems?

A Worked with the strippers, that did the job per se. They'd put it back on the light tables and found out where the registration and such was.

If it was an internal problem from stripping or a mechanical problem out in the pressroom.

Q There's testimony about signs that pressmen should not enter the front office, are there any signs posted anywhere that say, prepress or composition employees are prohibited from going into the pressroom?

A No.

Q Do they go in there from time to time?

A Yes.

Q You testified that the precise weekly work schedule of the composition department depended on business, generally, when you got the business in and when it was ready to go?

A Correct.

[p. 157] Q Fair characterization of what you said?

A All the departments are based on when it comes, and when it goes.

Q Okay. And, you testified about the former – the pressman scheduled to June – June 1, '87, and you said it was it four or five days a week, eight hours a day. Would the scheduling of the fifth day depend on business –

A On workload.

Q – is that –

A Yes.

Q Okay.

A Sometimes they came in for mechanical make ready, you know, get the presses ready for the midnight crew, if it was a Monday, or Friday, they'd clean up the building. Just to cover up there [sic] 36 hours, in that area.

Q The employee handbook, the safety section dealing with press or pressroom.

A Okay.

Q You were asked some questions about No. 10?

A Yes.

Q There's a reference to a yellow line painted on the floor, where's the yellow line?

A There aren't – there are no yellow lines in the building, as of yet.

Q Okay. On the next page there are rules [p. 158] on – safety rules on battery charger and charging area?

A Yes.

Q Where are these batteries?

A They are – they're in the center of the second pressroom off the end of the presses, there's a machine box out there that – we had a battery operated fork truck, or hand truck that used to carry pallets around, its [sic]

since been retired, and we don't use the charger any more.

Q So, when you did use the charger, that was to charge up the forklifts?

A Charge up the hand-battery operated fork truck, yes.

Q Okay. And, who operates the battery operated fork truck?

A The material –

MR. MCGLOW [sic]: I'm sorry, I thought it was – I thought it was gone?

BY MR. MCCARTHY:

Q Well, who did, at the time there was a battery operated –

A The material handlers. It was in the pressroom, for to pull pallets in and out.

Q You testified about shift premiums, and you gave us the amounts. Using the term employees to include all the employees under consideration today, meaning all your [p. 159] employees, except office – or management and office folks, do they all receive a shift premium?

A Yes.

MR. MCCARTHY: Nothing further.

HEARING OFFICER: Mr. McGlow [sic]?

RECROSS EXAMINATION

BY MR. MCGLOW [sic]:

Q Well, on the battery operated lift truck, that was a hand held machine?

A Yes, that was a walk behind unit.

Q And, that was operated by the material handlers?

A Yes, and people in the pressroom.

Q People in the pressroom might –

A Just to pull there [sic] pallet out of the rack.

Q To pull there [sic] pallet out –

A Printing pallet.

Q In case there's not a material handler right there to take the pallet out into the high bay, is that right?

A Uh-huh, yes.

Q But, that's gone now.

A Yeah, that's gone now.

Q The –

MR. MCGLOW [sic]: I've no further questions of this witness.

HEARING OFFICER: Okay. Mr. McCarthy?

[p. 160] MR. MCCARTHY: Nothing further.

HEARING OFFICER: I have just a few questions, I want to make sure we touched something, I apologize if we covered it already.

Going to the maintenance department, you have the three janitorial employees, one works a shift a piece, each shift gets a janitorial employee. You mentioned that they have occasion to go into the pressroom, how often a day do they go into the pressroom, to clean up?

THE WITNESS: They go through the pressroom every couple of hours.

HEARING OFFICER: Every couple hours?

THE WITNESS: Yeah, just too [sic] –

HEARING OFFICER: In an eight hour day, let's say, roughly how many hours are spent cleaning up the pressroom?

THE WITNESS: Two, maybe three.

HEARING OFFICER: Okay.

THE WITNESS: Per shift.

HEARING OFFICER: Per shift. Do they have occasion to go into the preparatory or prepress area?

THE WITNESS: Prepress usually cleans themselves, but, yes, they do go in there.

HEARING OFFICER: How many times a day?

THE WITNESS: Once in the morning.

HEARING OFFICER: Once in the morning. Okay. [p. 161] Now, do you have two mechanics, Mr. Mossing and Mr. Mulherin, how often do they go into the pressroom on a given day?

THE WITNESS: Depends how they run. Last week they were there about 30 hours.

HEARING OFFICER: 30 hours in the pressroom itself fixing up?

THE WITNESS: Yeah, yes, fixing the folder, fell apart.

HEARING OFFICER: How many hours do they spend as a rule, in that maintenance and rebuilding area, rebuilding machines which probably you'll sell sometime?

THE WITNESS: Very little.

HEARING OFFICER: Very little. Okay.

Now, another person in maintenance is Paul Griener, G-r-i-e-n-e-r, –

THE WITNESS: Right.

HEARING OFFICER: – does Paul have any occasion to leave his pallet area, which is located in high bay, and go into the main pressroom?

THE WITNESS: Yes.

HEARING OFFICER: When?

THE WITNESS: When there's a shortage of people that didn't show, he'd go in and fill in as a jogger.

HEARING OFFICER: As a jogger?

THE WITNESS: Yes.

[p. 162] HEARING OFFICER: Jogger is an unskilled position, correct?

THE WITNESS: Yes. Paul originally started as a jogger.

HEARING OFFICER: How often does he go in as a jogger?

THE WITNESS: He's been in the pressroom two – three of the last – three out five days for the last month.

HEARING OFFICER: Okay. Now, with respect to material handlers, I'm referring to the shipping and receiving department now?

THE WITNESS: Okay.

HEARING OFFICER: There's one, two, three, four, these are the people who operate the tow motor type machines?

THE WITNESS: Okay.

HEARING OFFICER: How often do they go into the main pressroom or the secondary pressroom, to drop off rolls of printing paper?

THE WITNESS: Secondary pressroom isn't being used at the present.

HEARING OFFICER: Okay.

THE WITNESS: The primary pressrooms there – a roll of paper will last you roughly 45 minutes, depending on what you're runing [sic]. They usually load up if they know that there's million run press – press run for a thing, [p. 163] they'll put five roles [sic] down.

HEARING OFFICER: Okay.

THE WITNESS: They're in the pressroom – in an eight hour day, they're probably in the pressroom four hours.

HEARING OFFICER: Four hours. How many material handlers per shift do you have?

THE WITNESS: Two.

HEARING OFFICER: Two?

THE WITNESS: Uh-huh.

HEARING OFFICER: So, when you have three shifts, the pressroom operates on three shifts?

THE WITNESS: Uh-huh.

HEARING OFFICER: There's –

THE WITNESS: Material handlers we have, let's see, we have, okay, material handler drivers, we have two people, we have a driver and a material handler per shift.

HEARING OFFICER: Okay.

THE WITNESS: And, or three drivers on days.

HEARING OFFICER: All right. What about the drivers, they have any reason, or cause to go into any of the main pressroom, or into the preparatory area?

THE WITNESS: No.

HEARING OFFICER: They have no occasion, they don't –

THE WITNESS: Just to walk through it maybe. [p. 164] They have – they deliver the product.

HEARING OFFICER: They deliver the product?

THE WITNESS: They load there [sic] own trucks.

HEARING OFFICER: They load there [sic] own trucks, so they would – they would load there [sic] own trucks again, referring to Joint Exhibit 1, they would load there [sic] trucks in the shipping dock, located in the Southeast corner of your facility, or the receiving dock. Would they do anything in the receiving dock?

THE WITNESS: Depends if there's a driver there, and there's a truck of paper, he might unload the truck of paper.

HEARING OFFICER: Okay. All right. Composition employees are located in offices kind of across the hall from the preparatory or prepress department area. Do they have occasion to go into the prepress department area a lot?

THE WITNESS: Yes.

HEARING OFFICER: How often a day do they – have to –

THE WITNESS: In there – there in the prepress office – well, let's see now, that depends on there [sic] day, there [sic] – there [sic] not on a scheduled day, but anywhere from an hour up to five, depending on there [sic] workload, to make the jobs ready.

HEARING OFFICER: All right. Do the pressroom [p. 165] employees have any occasion to visit or use the high bay area of your facility for any reason, or purpose?

THE WITNESS: If they have to take a pallet out.

HEARING OFFICER: Okay, is that a common occurance, [sic] or is that an uncommon occurance? [sic]

THE WITNESS: Rariety, [sic] and or if they cut the –

HEARING OFFICER: You say that's a rarity?

THE WITNESS: Rarity.

HEARING OFFICER: Okay.

THE WITNESS: And, or if they cut the – we have a job that has to trim every week.

HEARING OFFICER: Okay. Now, we've got – we've got sufficient evidence on pressman with there [sic] ink, not being permitted into the prepress area for the reason that – I guess they have a messy job, so to speak.

THE WITNESS: Uh-huh. Office area.

HEARING OFFICER: Okay. Now, do the employees – are – do are – do all the employees use the cafeteria to eat there [sic] lunch?

THE WITNESS: The majority of them do. The – the five up – the management office people up front don't use it. But, there's pop and candy machine [sic] back there, that they frequent.

HEARING OFFICER: Okay. What about a preparatory people?

[p. 166] THE WITNESS: Preparatory people, I know they use the vending machines, I don't know how often they sit out in the cafeteria.

HEARING OFFICER: Okay. You mentioned that in front of your building there's a, for the summer months, –

THE WITNESS: Picnic tables –

HEARING OFFICER: – or for the warmer months, I should say, they have a picnic table out there. Who uses that mainly?

THE WITNESS: Everybody.

HEARING OFFICER: Everybody?

THE WITNESS: Uh-huh.

HEARING OFFICER: Meaning, shipping and receiving, pressroom, prep –

THE WITNESS: Entire plant.

HEARING OFFICER: – composition people. Okay.

(Transcript continued on next page.)

[p. 167] Q Now, I know you have a locker room, rest room area in your facility. Who has their lockers in the locker room, rest room area?

A Everybody but the office and the pre-press personnel work out of that locker room.

Q Okay, everybody but the office people and the pre-press. What about the composition people, the two people?

A No, they don't have – they don't have facility for that.

Q They don't have a locker?

A No.

Q At all?

A If they do, it's in the pre-press locker area.

Q Okay, so, the pre-press locker, which is located in the south – southern portion, southwestern portion area, those lockers are for the composition people, the preperatory [sic] people, and any of your office personnel who are not in the unit here?

A Right.

HEARING OFFICER: Okay, I have no further questions. I think we covered everything. Mr. McCarthy, any additional questions?

MR. MCCARTHY: No.

HEARING OFFICER: Mr. McGlow [sic]?

MR. MCGLOW [sic]: Yeah, I have a couple of questions, [p. 168] I guess.

RECROSS EXAMINATION

BY MR. MCGLOW [sic]:

Q Mr. Tremonti, your office is in the front of the building. Is that right?

A Correct.

Q How much time would you spend in the press room yourself?

A Maybe an hour a shift, if I'm there. It depends.

Q If your – an hour a shift, if you're there, you're only there one shift a day, aren't you?

A I usually work 10:00 to 10:00. My hours are flexible. I've worked into the middle of the night. I don't have set hours.

Q So, there are some days you're not in the plant at all. Isn't that right?

A No, I'm at the plant everyday, unless I have to go to Cinncinati [sic] to pick up copy.

Q You were not at the plant when we delivered the suopeona [sic], were you?

A I was in Cinncinati to pick the copy. I didn't return until after 8:15.

Q So, you're out of the office a lot dealing with customers. Is that right?

A m out of the office dealing with customers on the [p. 169] hour on the basis of 12 hours a week.

Q And, you say you're maybe in the press room one hour a shift.

A Uh-huh.

Q Or, one or two hours a day?

A I tour the plant repeatedly through the day.

Q When you're in the plant, you walk through the plant?

A I tour, yeah.

Q But, you don't stay in the press room eight hours at a time?

A No, I don't.

Q The material handlers have no reason to be in the press room other than to deliver rolls of paper, and then, they move out, right? And then, they come in and get the pallets and, then they move out. Is that right?

A Right, unless they have to jog.

Q Unless they are doing a press room job, is that right?

A They weigh every pallet that comes off the press get's weighed. That's their function. That's in the press room. The scale's in the middle of the press room.

Q That takes a couple of minutes, right?

A Well, they have to drop it, weigh it, tag it, get back in, and go.

[p. 170] Q And move out.

A They do the same thing with every - we count our waste by weight. So, every job has weight reports. They do that at the press. They take the boxes when they fill up. They weigh them. They assign it to the, you know, the job that it goes into.

Q But, each trip into the press room could last -

A Two minutes.

Q - a few minutes, right?

A Right.

Q They bring in more than one roll at a time, don't they?

A Uh-huh.

Q They bring in two or three other stacks. Is that right?

A They're not supposed to, no. They're supposed to bring in a maximum of two rolls a trip.

Q Well, they bring in more than one.

A Right.

Q With the clamp, they can take out only one pallet at a time, obviously, is that right?

A Right, you have six folders running off at 20,000 an hour with an average pallet of 27,000 pieces. They're in the press room a lot.

[p. 171] Q They go in a lot. They stay for a couple three or four minutes and then they're out.

A Repeatedly.

Q Then they come back in, and, they go out.

A They're in and out repeatedly, yes.

Q Now, Mr. Griener is in the press room doing jogging work more now because of the absence of the 16 employees. Isn't that right?

A Yes.

Q Prior to June 1st, Mr. Griener rarely worked as a jogger. Isn't that right?

A Only as a fill in, yes.

Q There aren't any press mechanics working second or third shift. Is that right?

A Scott and Hollis were on 10 hour shifts on a normal basis. Second shift was void of any mechanic for about four hours a day.

Q Hollis was on the third shift, and he'd do the mechanical work.

Q Right.

Q Then, he was the press room group leader, as he's listed here. Is that right?

A And, the one that did all the training.

Q And, Scott Shaffer would do mechanical work during the day. Is that right?

[p. 172] A Yes, along with Rick.

Q Along with Rick Mossing?

A Rick Mossing, yes.

Q You said, I think – strike that. No further questions.

HEARING OFFICER: Mr. McCarthy?

REDIRECT EXAMINATION

BY MR. MCCARTHY:

Q Paul Griener, the pallet maker.

A Yes.

Q Prior to June 1 of '87, you say he's in the[2] press room only as a fill in?

A Yes.

Q For whom would he be filling in?

A Missing joggers.

Q Can you give us any idea, looking at the period of time prior to June 1 of '87, how many days a week he would be in there filling in for a missing jogger?

A Well –

Q If you know.

A No, I don't know – six or eight hours, maybe on a weekly basis.

MR. MCCARTHY: Nothing further.

HEARING OFFICER: Okay, you may be excused, [p. 173] thank you very much.

(Witness excused.)

HEARING OFFICER: Go off the record briefly.

(A short recess was taken.)

HEARING OFFICER: Back on the record.

Mr. McCarthy, it's my understanding at this time that you don't have any additional witnesses to present. Mr. McGlow [sic], do you wish to present any witnesses at this time?

MR. MCGLOW [sic]: I think I'm going to just call Mr. Freeze for a couple of questions.

HEARING OFFICER: Mr. Freeze?

MR. MCGLOW [sic]: Yes, Mr. Joe Freeze, right here beside me.

HEARING OFFICER: Okay, Mr. Joe Freeze, would you like to have a seat please?

Please be seated.

Mr. Freeze would you please state your name for the record?

THE WITNESS: Joseph Freeze.

HEARING OFFICER: How do you spell Freeze

THE WITNESS: F-r-e-e-z-e

HEARING OFFICER: Okay, if you'll raise your right hand. [p. 174] Whereupon,

JOSEPH FREEZE

was called as a witness herein and, after having been first duly sworn, was examined and testified as follows:

HEARING OFFICER: Mr. McGlow [sic].

DIRECT EXAMINATION

BY MR. MCGLOW [sic]:

Q Would you state your name for the record?

A Joseph Freeze.

Q And, you are one of the employees who worked at NTA until early June of this year, and, you're one of the employees that is referred to in the unfair labor practice complaint?

A yes.

Q And, you're no longer working there at this point in time?

A Right.

Q What was your position when you worked at NTA?

A A pressman.

Q What press did you run?

A 1B.

Q And, what shift?

A First.

Q And, was a particular jogger assigned to [p. 175] work on that press with you?

A Yes.

Q And, who was that?

A Robert Emerson.

Q Now, you were here when Mr. Tremonti testified that pressmem [sic] would ocassionaly [sic] enter the pre-press area if there were registration problems, and, they would work with the strippers. Is that right?

A They may –

Q Were you here when he testified to that?

A Yes.

Q Now, can you – did you, yourself, ever go into the press room, I mean the pre-press room to work with a stripper on a registration problem?

A No.

Q If there were that kind of a problem, how would it be handled?

A Most of the time I would get hold of Scott Shaffer, and point the problem out to him, and, he would handle it from there.

Q Now, did janitors enter the press room?

A Yes.

Q How often, in a day, would they come in the press room?

A They might come down through the center [p. 176] of the press room maybe once or twice, at the maximum, three times a day.

Q And, would they mop in behind the presses?

A No.

Q Did they mop and sweep in the center?

A In the center.

Q And, how long would they be in the press room each time?

A It probably takes 15 minutes each time.

Q Do you know Mr. Paul Griener. Do you know who he is?

A Yes.

Q He is the pallet maker?

A Yes.

Q Did he ever work in the – as a jogger when you were working as a pressman?

A Yes.

Q Approximately how often would he work as a jogger?

A Probably about once every three months.

Q Who handled most of the mechanic problems in the press room during the first shift?

A Scott Shaffer.

Q Were Mr. Mossing and Mr. Mulherin in the press room often?

[p. 177] A No, on a rare ocassion [sic] Mr. Mossing would be there.

Q When you talk about rare ocassion, [sic] could you give the record some kind of idea?

A If there was an electrical problem, and, if it would be an extreme problem, nothing simple, like the switches or anything, but something with one of the presses that was electrical.

Q Mr. Mossing would come in then?

A Yes.

Q Other than delivering paper and taking out pallets, would a high-low driver do anything in the press room?

A No.

MR. MCGLOW [sic]: I have no further questions.

HEARING OFFICER: Mr. McCarthy?

CROSS EXAMINATION

BY MR. MCCARTHY:

Q Mr. Freeze, when you worked at NTA graphics as a pressman, you were assigned to a particular press?

A Yes.

Q You have heard Mr. Tremonti's testimony about the presses and how they worked, and, you're no doubt familiar with that.

A Yes.

[p. 178] Q When a press is running, do you consider it a necessary part of your job duties to attend to that press, to be there, to observe it, to make sure it's working?

A Yes.

Q If you're doing your job properly, that's what you're focusing on. You're focusing on that press, and seeing how it works, and that it works, and making the adjustments necessary to make it work?

A Yes.

MR. MCCARTHY: Nothing further.

REDIRECT EXAMINATION

BY MR. MCGLOW [sic]:

Q If you were running your press, could you see if a janitor was mopping behind it?

A Yes, most definitely. I have to go in behind to fill the inks and adjust the waters.

Q Approximately how much in percentage terms, how much of your time did you spend in the press room?

A 99 percent of my time was spent in the press room.

MR. MCGLOW [sic]: No further questions.

HEARING OFFICER: Mr. McCarthy?

Okay, let's go off the record so we don't waste tape. Off the record.

[p. 179] (A short recess was taken.)

HEARING OFFICER: Back on the record.

RECROSS EXAMINATION

BY MR. MCCARTHY:

Q Now, Mr. Freeze, I turn your attention to what has been marked as Joint Exhibit 1, I want to clarify on this exhibit which press was it that you said you were assigned to?

A 1B, right here (indicating).

Q Okay, now, 1B consists of eight units?

A Yes.

Q Now, where would you stand? I guess all I want to ask you to do is indicate where you would stand.

A I don't stand. I run from this end of the[2] press all the way around the butler to take care of the butler, make sure I load it, and, I have to go behind to fill ink trays, because a lot of the ink lines don't work, adjust water

trays or something, or fill the waters that don't work. I'm around the whole area constantly.

Q Now, there's an area here (indicating). How far is that? What is that?

A That's the butler. Between the butler and the folder it's probably about 20 foot.

HEARING OFFICER: Excuse me, for clarifica[p. 180]tion, so somebody trying to figure out what we're talking about who doesn't have pictures or video tape of us, there are – there's a thing that states, it says, "Buns, two butler, two folders, and there is like a little space –

MR. MCGLOW [sic]: It's eight units.

HEARING OFFICER: Eight units, I'm sorry, I can't read the writting. [sic] But, anyway, there's like these oval little ovals to the, based on our compass readings, to the east of 1B. What are those little things? This and this?

THE WITNESS: They are the butler units.

HEARING OFFICER: The butler what?

THE WITNESS: Units.

HEARING OFFICER: Units?

THE WITNESS: What we put the paper on.

HEARING OFFICER: That's the units that you put your paper on. They are kind of like the things that hold the paper?

THE WITNESS: Yes.

HEARING OFFICER: Okay, I'm sorry.

MR. MCCARTHY:

Q Now, you're saying – tell me the distance between – if you come off the end of the units, I guess this is the folder.

[p. 181] A Folder.

Q The distance between that and the butler.

A 15 to 20 foot.

Q Okay, from this butler (indicating) to the next butler?

A Those are right up against each other. There's probably five or six foot in between them.

Q Okay, now, isn't it true that, although not drawn on this diagram, if you stood, well, let's put it this way, that immediately south of the unit that you work at, there's a large wall in effect?

A Uh-huh.

Q What's the purpose of that wall?

A There's a bench there, a tool bench.

Q Okay, and, how high is that bench?

A About 7 foot.

Q Okay, now, also, just so, although it's not depicted on the diagram, are there similar benches adjacent to the other units, the other presses?

A Yes.

MR. MCCARTHY: Nothing further.

HEARING OFFICER: Mr. McGlow [sic]?

REDIRECT EXAMINATION

BY MR. MCGLOW [sic]:

Q Did I ask you how long you worked there?

[p. 182] A No.

A How long had you worked there?

A Two and a half years.

Q Then, what you've testified here today, is that basically you're experience over the two and a half years?

A Yes, I had prior experience also.

Q No, I mean what you testified here today about the janitors and the –

A Yes.

Q – and so forth, is that basically what happened over the two and a half year period?

A Yes.

MR. MCGLOW [sic]: No further questions.

HEARING OFFICER: Okay, I have no additional questions to ask at this time. You may be excused, Mr. Freeze, thank you very much.

(Witness excused.)

Mr. McGlow [sic], do you have any additional witnesses that you wish to present?

MR. MCGLOW [sic]: No, we do not have any additional witnesses.

HEARING OFFICER: Mr. McCarthy, any other witnesses at this time you wish to present, or any rebuttal witnesses, or whatever?

[p. 183] MR. MCCARTHY: Well, I don't – I guess my that [sic] my though [sic] is this, if we are going to finish today, no. If, depending on what's happening with the subpeona, [sic] if we are going to have to reconvene for purposes of the subpeona, [sic] I would like to reserve the right to call a rebuttal witness at that time.

HEARING OFFICER: Okay, let's go off the record, and we –

MR. MCGLOW [sic]: We can do it on the record. We're not going to demand the records.

HEARING OFFICER: Okay, so in other words, the Union is not going to persue [sic] the subpeona [sic] ad – duces tecum, I'm sorry, I'm getting my latin mixed up here, the subpeona [sic] duces tecum.

What about the subpeona [sic] ad testificandum submitted for Mr. Norman Tremonti?

MR. MCGLOW [sic]: We'r [sic] not going to persue [sic] that either.

HEARING OFFICER: Okay, let's go off the record now at this time.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Earlier in this hearing there was reference to a petition to revoke subpeonas, [sic] plural, filed by the Employer in this matter. With respect to the petition [p. 184] to revoke subpeona, [sic] as applied to the subpeona [sic] ad testificandum served upon Mr. Norman Tremonti, it's my understanding the Union has no intention of persuing [sic] that matter as far as getting Mr. Norman Tremonti to testify as a result, that information, I think is a moot issue, therefore, I am going to deny the petition to revoke as it applies to Mr. Tremonti, Mr. Norman Tremonti.

Now, as it applies to Mr. David Tremonti, obviously, the record shows that Mr. David Tremonti was present. He testified under oath. And, he testified under oath at great length, therefore, I find that the Employer, in fact, complied with the subpeona [sic] request, and, it would be just no sense in revoking that subpeona [sic] at this time, therefore, I'm going to deny that petition to revoke.

Lastly, with respect to the subpeona [sic] duces tecum that was filed for a series of documents in this matter, the Union has advised me orally that it does not wish to proceed or insist upon the Employer providing those documents at this hearing, and, as a result, I am going to deny the petition to revoke the subpeona [sic] duces tecum, in as much as it's also moot as of this time.

Let's go off the record.

[p. 185] (Discussion off the record.)

HEARING OFFICER: Back on the record.

Based on our off the record discussions, both counsels have advised me that neither wishes to argue their

case orally at this time, and, that they intend to submit an arguement [sic] by means of a brief to the – in care of the regional director.

With respect to a summation of the issues, this – there was really only one major issue involved in this particular matter, that is a scope of unit type issue. The Employer, in effect, wishes to – for the regional director to direct an election in a unit much broader than that petitioned for and amended at this hearing by the Petitioner.

Once again, the Petitioner is seeking to represent a bargaining unit which would read as follows: all preperatory [sic] and press department employees employed by the Employer at it's [sic] 5225 Telegraph Road, Toledo, Ohio facility, excluding all office clerical employees, maintenance department employees, composition department employees, and all shipping and receiving department employees, including truck drivers and all office clerical employees, and professional employees, guards, and supervisors as defined in the Act.

Now, the Employer, on the other hand, would [p. 186] request that the Director for a community of interest reasons, would direct an election in a unit as follows: all preperatory, [sic] press, maintenance, composition, and shipping and recieving [sic] department employees employed by the Employer at it's [sic] 5225 Telegraph Road, Toledo, Ohio facility, excluding all office clerical employees and all professional employees, guards and supervisors as defined in the Act.

Is that a correct summary of the desired units for each respective party as you understand it?

MR. MCGLOW [sic]: Yes.

MR. MCCARTHY: Yes.

HEARING OFFICER: Mr. McGlow [sic], Mr. McCarthy very good so my summary.

Mr. McGlow [sic], with respect to the Petitioner, should the Director find appropriate a collective bargaining unit much broader than the one that you are petitioning for, would the Petitioner seek to be on the ballot in an election in such an instance?

MR. MCGLOW [sic]: Well, better go off the record for a few minutes.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

MR. MCGLOW [sic]: The answer to your question is, [p. 187] if the Director directs an election in a larger unit than we petitioned for, we would still be interested in representing that unit, so, we still want an election.

HEARING OFFICER: Okay.

MR. MCGLOW [sic]: Was that the question?

HEARING OFFICER: That's the question. We want to know if you'd be willing, or, do you want to seek – basically, what the question would read was, does the Petitioner seek to be on a ballot in an election if the Director deems the appropriate to be broader than that petitioned for, and, the answer is, yes.

MR. MCGLOW [sic]: Yes.

HEARING OFFICER: Okay, we delt [sic] with the issue of oral arguements. [sic] It's my understanding that the Parties wish to file briefs in this matter. Off the record, briefly.

(Discussion off the record.)

HEARING OFFICER: Back on the record. Once again, it is my understanding that the Parties do wish to file briefs on this matter. Is that correct, Mr. McCarthy?

MR. MCCARTHY: Yes.

HEARING OFFICER: Mr. McGlow [sic]?

MR. MCGLOW [sic]: Yes.

[p. 188] HEARING OFFICER: Okay, at this time I will give the Parties until the close of business on July 16, 1987 for the filing of briefs in this proceeding. Any questions concerning that at this time?

MR. MCCARTHY: The Employer would request at this time an additional period of seven days thereafter for the filing of briefs. I think we can expect a transcript, Monday?

HEARING OFFICER: The court reporter is nodding, yes.

MR. MCCARTHY: Okay, I have several all day commitments next week, and, it's going to be virtually impossible for me to get a brief in if I get a transcript on Monday by the following Thursday, for that reason, I'd request an extension of an additional seven days, which would, in effect, be until July 23.

HEARING OFFICER: Okay, Mr. McGlow [sic]?

MR. MCGLOW [sic]: I'd request an extension for seven days after the briefs are received.

HEARING OFFICER: Okay, as I mentioned to you, we had a brief off the record discussion, at this time, I am going to deny your request. I think seven days should suffice. Once again, let me remind you, that if you do wish to have an additional seven days, or [p. 189] any extension, really, if you make a request in writing to the regional director, I'm sure he will act accordingly upon any reasonable request for an extension.

Okay, just once again, the only issue, again, is scope of unit. There was some discussion here about supervisory matters, at this time, nobody's taking any position on any other supervisors unless those stipulated specifically in Board Exhibit Number 2, so, that's for the benefit of the reader of this record.

If there is nothing further the hearing will be closed. The hearing is now closed.

(Whereupon, at 3:20 p.m., the hearing in the above-entitled matter was closed.)

NATIONAL LABOR RELATIONS BOARD
Docket No. 8-RC-13648 OFFICIAL EXHIBIT NO. E-1

disposition
Illegible x
Received x
Rejected _

In the matter of NTA Graphics Incorporated
Date 7-9-87 Witness Tremonti Reporter Illegible
No. Pages

Employer Exhibit 1

NTA GRAPHICS, INC.

Departments and Job Classifications

Dept. 700 Management	David Tremonti Gail Tremonti Frank Skwiera
Dept. 200 Office	Lisa Bartkiewicz – Computer Operator J. Lajiness – Receptionist David Allen – Security
Dept. 900 Maintenance	Craig Zdybek – Janitorial Alex Naus – Janitorial Howard Hakanson – Janitorial Richard Mossing – Press Mechanic Bob Mulherin – Press Mechanic/ Inventory Clerk
Dept. 910 Pallets	Paul Griener
Dept. 800 Shipping/ Receiving	Randy Perdue – Group Leader Gerald Hennenan – Driver Mark Ruetz – Material Handler J. Neuenschwander – Material Handler Cecil Long – Utility Thomas Harris – Driver Don Gates – Material Handler Mike Bond – Driver Joe Baer – Material Handler

Dept. 400 Composition	Caroline Hickman – Dispatch/Layout Yvonne Sargent – Typesetter/Layout
Dept. 100 Pre-Press	Beryl Grisier – Group Leader/ Camera/Plate Jim Smothers – Stripper Rick Carter – Stripper Chris Callaghan – Stripper Pat Mossing – Stripper Darcy Doyle – Plater Paul Mullins – Part-time Stripper Dan Etue – Part-time Camera
Dept. 000 Pressroom	Scott Shaffer – Supervisor/Pressmen/ Mechanic Hollis Shaffer – Group Leader/ Pressmen/Mechanic John Jackson – Pressmen trainee Bradley Clark – Jogger/utility Tracy Davis – Jogger/utility
Dept. 000 Pressroom	David Kollman – Jogger/utility Don Jones – Jogger/utility Lester Roberts –Jogger/utility Robert Miller – Jogger/utility Mike Rogers – Utility Doug Boursaw – Jogger/utility Craig Dixon – Part-time Pressman John Wilhelm – Pressman trainee William Ruckreigle – Pressman Phil Rogers – Pressman trainee Ron Nagel – Pressman/jogger Mike Mossing – Pressman trainee Jim Danford – Pressman trainee David Cortez – Pressman trainee Tim Brewer – Pressman trainee

TRAINEE IS ANYONE WITH LESS THAN THREE YEARS EXPERIENCE

NTA GRAPHICS INCORPORATED

EMPLOYEE HANDBOOK

NATIONAL LABOR RELATIONS BOARD

Docket No. 8-RC-13648 OFFICIAL EXHIBIT NO. E-2

disposition Illegible x
Received x
Rejected __

In the matter of NTA Graphics Incorporated
Date 7-9-87 Witness Tremonti Reporter Illegible
No. Pages

Dear NTA Graphics Employee:

You have made application with and have been accepted for probationary employment with NTA Graphics Inc. it is my pleasure to WELCOME you as an employee.

Talking about successful businesses and their chief executives, you've probably heard it said at one time or another that "the key to that fellow's success is that he's surrounded himself with good people." Where NTA is concerned, I am optimistic that this saying will hold true. Those KEY PEOPLE are YOU – the employees. YOU are important in making things happen . . . YOU can insure that they happen in the best interest of the Company. And, the best interest for the Company, is the best interest for you.

As an employee of NTA, you have a right to know what you can expect from your Company; and you should also know what the Company expects from you. This booklet provides that information to you. It is intended to help you gain a complete understanding of

the opportunities and benefits that employment with this Company can provide. It will also help you understand the rules and regulations that must govern our relations with each other.

Please read this handbook carefully, if you have any questions, discuss them with your supervisor. He will be happy to give you any further information that you may require.

My THANKS in advance for that "extra effort" and real concern for your work that I have come to expect from all NTA employees. The contribution you will make to the total Company operation is greatly appreciated.

Sincerely,

Norman Tremonti
Chairman of the Board

DISCLAIMER

"While we believe wholeheartedly in the policies and procedures summarized in this booklet, they are not conditions of employment. The booklet does not create an employment contract or term, or limit the reasons for dissolution of the employment relationship, but rather simply sets out for your information some of our guidelines which may be changed from time to time in light of experience without notice.

EQUAL EMPLOYMENT OPPORTUNITY:

NTA is an equal opportunity employer. We pledge to provide equal employment opportunities without regard to race, creed, color, religion, national origin, sex, age or

handicap. This pledge applies to all employees and applicants for employment in connection with hiring, placement, upgrading, laying-off, transfer, re-employment, company-sponsored training, benefits, compensation and termination. NTA also seeks to employ and advance qualified handicapped individuals that fit our labor availability. NTA has developed positive recruitment activities to that end, and we encourage all employees to help in meeting these objectives.

WORK ENVIRONMENT:

Here at NTA, the environment is good – both the working conditions and our personal relationships create a team spirit. Each employee is treated as an individual and is an important participant in the operation of our plant. We want you to talk with us, and we want to talk with you; we hope to keep it that way.

The management of NTA is dedicated to providing good working conditions, good wages and good benefits. You receive all these things by working for NTA.

At NTA what you say counts. We feel that direct communication between management and employees is the easiest way to make management aware of your problems. Do not hesitate to make your feelings known; this is the only way management can help solve your problems.

YOUR SUPERVISOR

Your supervisor has obtained his position through hard work and years of dedicated service. Over those years he has learned correct processes, procedures and

operations of each job under his supervision. He has the responsibility and the authority to make important day to day decisions in the department of his jurisdiction. He should be able to answer any questions or handle any problems that may arise for you as an individual. His leadership is vital in our operation, and your willingness to follow his lead is imperative.

QUESTIONS, SUGGESTIONS & COMPLAINTS:

We encourage you to bring your questions, suggestions and complaints to our attention. We will give careful consideration to each of these in our effort to continually improve our operation.

If you have any questions, suggestions or complaints, we encourage you to frankly discuss them with us, no matter how small they may seem to you.

Here are the steps that you may take:

First, if you feel you have a problem, you should present the situation to your supervisor so the problem can be settled quickly. Your supervisor knows you and your job best.

If you are not satisfied with your supervisor's response or if for some reason you do not wish to bring the problem to the attention of your supervisor, you may take the problem to the personnel manager. The personnel manager will answer your questions or solve your problems personally or if that is not possible, your problem will be presented to upper management and you will receive a final answer or decision.

We are anxious to hear from you on any subject. We want you to have every opportunity to discuss your problems freely and to feel that you have been treated fairly.

*The suggestion box is emptied daily by management personnel.

INTRODUCTORY PERIOD:

All new employees receive on-the-job training. During this period, employees will be considered probationary for ninety (90) working days. As a new employee, you will receive instructions on how to do your job correctly. The methods you will be taught have been time tested to insure safety, quality and production. They are designed to help you work SMARTER not HARDER.

If you do not understand the reasons for a certain step or steps, ask your supervisor. Let's talk about it and avoid any misunderstandings.

During your probationary period your performance will be evaluated, and you will be counseled by your supervisor. We are confident you can learn the skills required to meet our quality and production standards. Your performance will be reviewed after this ninety day probationary period.

HOURS OF WORK:

Because of the varied duties of each of our departments and the numerous deadlines we are required to meet, NTA operates on a wide range of 8-hour, 10-hour or 12-hour schedules. Each department sets hours as needed

to meet work and deadline requirements. Your supervisor will keep you advised as to what hours you will work. Saturdays and Sundays are mandatory when the work load requires those days to be worked.

NTA WAGES:

Your wages and benefits with NTA represent one of the finest packages for our industry in this area. They have been established and will be maintained at a competitive level through a continuing review of local area industry conditions and pay scales.

OVERTIME PAY:

You will be expected to work overtime as requested to meet our deadlines. Your overtime hours will be paid at time-and-one-half of your regular hourly rate, if you are an hourly worker, as follows:

- for authorized work in excess of 40 hours per week.
- authorized Saturday or Sunday work, in excess of 40 hours worked
- authorized holiday work, plus holiday pay for qualified individuals.

Any employee working overtime without authorization will not be paid for that time. Overtime must be approved by your supervisor.

Holiday hours and hours paid for vacation will not be counted as hours worked computing overtime.

TIME CLOCK PROCEDURES:

A time clock is located at the employee entrance for use by our hourly employees. You are to:

- Punch in when starting to work
- Punch out and in for lunch even if you eat in the plant
- Punch out when you finish work

Employees are expected to start work as soon as they punch in. When you punch out you MUST leave the building. Do not linger in the plant or bother people that are still working. If, for any reason, you have to have time written in on your time card it MUST be approved and initialed by your supervisor or the personnel manager.

No one can punch a time card for another employee – ever. **Violation of this rule means immediate dismissal for both employees involved.**

All hourly employees are to enter and exit the building through the employee entrance door.

PAY DAY:

You will be paid by check every Friday after 2:00 p.m. for work performed in the preceding week. A work week is defined as the period of time from 12:01 a.m. Monday to 12:00 Midnight Sunday. If there are any mistakes on your check, notify your supervisor immediately for the necessary corrections.

Shift supervisors will distribute checks on their respective shifts.

Pay checks will not be given out early, for any reason, so do not ask for them.

Only the employee whose name appears on the paycheck may receive it, unless another person has a written order plus a telephone request from the employee asking for his or her paycheck. For employees absent on pay day, pay checks will be held until the employee returns to work.

BENEFITS:

NTA provides for its employees a growing combination of benefits – benefits which are becoming the best of those provided by comparable companies in our industry. These benefits include insurance, paid holidays, vacations and other advantages which are described below.

INSURANCE: NTA pays 75 percent of an employees medical coverage whether you carry an individual or family plan. This coverage also includes $25,000 cash value Life Insurance.

VACATION: Each employee is entitled to a paid vacation of one week (40 hours at current pay rate) after one year of continuous employment with NTA Two weeks will be paid after 3 years continuous employment.

Three weeks will be paid after 7 years continuous employment. Four weeks will be paid after 12 years continuous employment. Five weeks will be paid after 20 years continuous employment.

Vacation time cannot be accrued and carried over from one year to the next. Any vacation time you do not use, you lose.

Time off for vacation must be scheduled in advance. Notice must be given two weeks prior to desired vacation date. If two employees working the same shift in the same department want to take a vacation the same week, the person who turned in their notice first will get that week. So, if you plan your vacation early and let us know you will be assured that time period.

Vacation checks will not be issued until on or after the date an employee becomes eligible. If an employee quits before his eligibility date (hire date), no matter how long he had been employed, he will not receive vacation pay.

Call-in, part-time and temporary personnel do not receive paid vacations, or medical or life benefits. All vacation checks will have the required amount of taxes deducted. This is required by state and federal law.

SICK LEAVE PAY:

Hourly employees do not receive sick leave pay. When possible you will be given a chance to make up the hours you missed.

DAILY ABSENCES:

When NTA hires you, you are assigned a specific job with specific responsibilities. For that reason, your presence is imperative unless a situation arises over which you have no control. If you are absent, special arrangements must be made to fill your vacancy. Notification of absenteeism to the Supervisor prior to the start of the shift of a work day shall be required. An absentee report

will be filled out by your supervisor and turned in to the personnel office. That report becomes a permanent part of your work record. A report will also be filled out and kept on file when you are late coming to work.

When calling in to report an absence or that you will be late, you should speak directly to your supervisor if possible. If not, speak to the receptionist. Call at least 2 hours prior to your scheduled start time.

A doctor's report must be brought in anytime you are absent due to illness.

An excess of absences or tardiness will result in pink slips and possible dismissal of employment if absences and tardiness continue after proper and sufficient warnings. Also, too many absences and excessive tardiness could be cause to deny raises to an employee.

FIRE OR EMERGENCY PROCEDURES:

For the safety and convenience of the employee, NTA fire exits are clearly posted. Fire extinguishers are located throughout the plant.

At the first sign of a fire, if you are near an extinguisher, make an attempt to bring the fire under control. If this is not possible, call the fire department – Dial 244-3473 – then go to the nearest exit and leave the building.

DISCIPLINARY PROCEDURES:

"While we support the principle in progressive discipline, you should be aware that more serious offenses can

and will result in immediate dismissal from employment without prior warning."

The disciplinary system used at NTA Graphics is that of warning notices. These may be issued for any number of reasons, the most common are: absenteeism, tardiness, conduct, housekeeping habits, or poor attitude. The immediate supervisor is usually the person generating the warning notice, but they may be issued by anyone in upper management. The first notice carries only the notice itself, usually. The first written notice usually comes after several verbal warnings. The second notice will carry a three-day suspension without pay. The third notice means automatic dismissal. In each case, the employee is allowed to present their sides of the story, and if enough reason is shown, the notice may be revoked. These pink slips become a part of your permanent work record.

The Company can and will dismiss an employee without prior warning if there is sufficient cause.

An employee may have a warning notice cancelled if, after receiving a notice, he does not get another for 15 months.

Employees will receive warning notices for being on the premises when they are not working, unless they have proper authorization. Being in the plant, out of your designated work area without sufficient cause is also reason to receive a warning notice. No employee should ever be around the presses except pressrooom [sic] (Dept. 000) personnel. This is for your own safety as well as those working on the presses.

SMOKING:

Smoking is prohibited in certain areas of the plant. Due to the amount of paper, dust, and chemicals, you are allowed to smoke only in the designated areas which are clearly marked.

Failure to adhere to this will result in reprimand and or dismissal.

FACILITIES:

The NTA facility represents a large capital investment by its stockholders. You will be encouraged to use all the facilities available, but you will also be required to keep the facility neat and clean. We ask that you treat our facilities as you would treat your own home, for this is your home approximately one-third of the time.

EATING AREA: This plant provides you with an eating area, away from your work. This area should be used for lunch, breaks and relaxation. There are vending machines in this area with drinks, cakes, cookies, etc. We provide a microwave oven for heating sandwiches, soups and anything you may wish to bring from home. PLEASE DO NOT PUT METAL OBJECTS IN THE MICROWAVE. We expect all our employees to do their part to keep the eating area clean. A refrigerator is also supplied for your use, keep it clean.

RESTROOMS, WATER COOLERS AND PARKING LOTS are located on the premises for your convenience and use.

PRODUCTION AREAS are the areas where the actual construction of our product is being performed. These

include the Pressrooms, Stripping & Camera Department, Typesetting Department, Shipping & Receiving Department, and Art Department. Everyone in these areas has a job to do; therefore, visiting, horseplay, or loafing is not tolerated in these areas. You are to stay in your department. No one from any department other than Dept. 000 is to go around the presses – EVER!

TOOLS AND EQUIPMENT:

The tools and equipment used in the production of our product are very expensive and should be treated as if they were your own. Please do not abuse the tools and equipment or lose them. All assigned items are your responsibility for care and replacement costs due to loss or abuse.

TELEPHONE CALLS & PERSONAL VISITORS:

The telephones in our facilities are for business purposes and must be available to our employees that depend on them to do their jobs and to our customers.

Personal calls will be accepted for employees only in cases of emergency. If some situation makes it necessary to make outside calls, check with your immediate supervisor for permission. A payphone is located at the employee entrance. Do not use the company phone for private calls.

Employees having personal visitors in our plant is NOT permitted. Each of us has a job to do, and our visiting should be done in our homes after work hours. If an emergency makes it necessary for someone to contact

you personally, they must come to the front office. Abuse of the telephone or having visitors in the plant will result in a warning notice being issued.

PLANT VISITS:

All plant visits by individuals or organizations for other than business purposes must be arranged through the front office.

SOLICITATION AND DISTRIBUTION BY NON-EMPLOYEES:

Solicitation, distribution of literature or trespassing by non-employees on these premises is prohibited.

EMPLOYEE SOLICITATION AND DISTRIBUTION:

Employees are not permitted to distribute advertising material, handbooks, or printed or written material of any kind in production and working areas of the plant during working hours or when not working.

OFF DUTY ACCESS TO COMPANY FACILITIES:

Employees are not permitted access to the interior of NTA facilities or other internal or outside work areas during off duty hours. This includes the parking lot.

- Anyone punching the time clock for another employee will cause both parties involved to be dismissed immediately
- Employees are not allowed out of their designated work area without proper cause or authorization.

- Anyone removing safety guards, for other than repairs will be dismissed immediately.
- Injuries must be reported immediately to your supervisor.
- Except in cases of emergency, running on company property is prohibited.
- Removal of locks or danger tags on any machinery is prohibited.
- Employees should make no attempt to catch falling objects.
- Never use defective machinery. Use only authorized equipment in specific operations.
- Smoke only in areas designated as smoking areas.
- Tampering with any machinery is forbidden.
- Make certain all emergency equipment, such as fire extinguishers, alarms and exit doors, are accessible at all times.
- Know the locations of all fire and safety exits.
- Wear safety glasses in all safety-glass areas. These are marked by green tape and signs.
- Do not wear any jewelry such as watches, rings, bracelets, and necklaces while working around or operating moving machinery.
- Safety shoes must be worn at all times. Sandals and sneaker-type shoes are never acceptable.
- Keep your work area clean. A clean area is a safe area.
- No firearms, ammunition, or similar articles are permitted on company premises or immediate dismissal will result.

- When going off duty check work areas and equipment to see that they are in good order. Report any needed repairs to the shift foreman.

- Be responsible for your own safety and use care to avoid injury to other workers.

- If at any time machinery needs cleaning or adjusting while in operation, secure the permission of the foreman first.

- Never use compressed air to clean the clothing you are wearing.

- Maintain all tools in good repair.

The preceding list is of general plant safety rules and represents NTA's commitment to a safe work place.

Before starting work you will be asked to sign a complete list of all SAFETY AND PLANT RULES AND REGULATIONS. Management takes these rules seriously, and you are asked to read them and to consider them seriously before signing. We expect everyone that works for NTA to abide by these rules without question.

THE VIOLATION OF THE ABOVE RULES WILL RESULT IN REPRIMAND, SEVERE VIOLATIONS WILL RESULT IN IMMEDIATE DISMISSAL, BE SURE YOU SIGN THE FORM ON THE LAST PAGE OF THIS BOOK AS VERIFICATION THAT YOU HAVE READ AND UNDERSTAND THE RULES AND REGULATIONS SET OUT IN THE EMPLOYEE HANDBOOK.

SAFETY

PRESS & PRESSROOM

1. **SAFETY DEVICES** – Always put the press on safety when making adjustments or doing maintenance work. Use the button at the push button station nearest the area where the work is being done, even though one may be pushed in at another station. After pressing a button, always be certain that the safety signal lights are glowing.

   Do not bypass built-in safety devices and interlocks. All safety devices, whether mechanical or electrical should be functional at all times.

   Do not operate machinery when guards or covers are removed or open. Do not open guards when machinery is running.

2. **PRESS AND UNITS** – Do not touch any moving part of the press. Be sure the press is stopped and in safe condition before touching any operating part.

   Do not oil or grease machinery while it is in operation.

   Stand clear of the press when the red signal light glows and the bell is sounded to indicate the press will start running.

   Clean up paper dust, spilled ink or oil, rags and other waste which may accumulate on or around the press. Do this immediately when spillage of ink or oil or hydraulic fluid occurs. (THEN, not later!)

   Do not leave tools, cloths, oil cans or other materials on press frames, housings or platforms, or in aisles.

   Always replace floor plates immediately after completing work below the floor.

Do not attempt to clean blankets or clean cylinders while the press is moving.

Do not attempt to wipe inking rolls or drums while the press is moving.

Remove levers or wrenches from sockets and rags, immediately after they have been used and before starting the press.

Avoid standing in the aisles between units while the press is running.

3. **FOLDER** – DO NOT reach into or lean over any portion of the folder when the press is moving.

When working around the folding cylinder (Particularly when removing the knife bar), use extra caution to avoid contact with the pins & knives which will cause personal injury.

SECURITY:

NTA employs a Security Guard who is on duty at randomly selected hours on random days. His duties are:

- check outside doors and make sure they stay locked.
- patrol the premises every 30 minutes, inside and out.
- make sure that everyone on the premises is wearing an Employee I.D. Badge (yellow), a Temporary Pass (white) or a Visitor Pass (Beige).
- anyone trying to enter the building without a proper I.D. should be stopped.
- employees are to stay in their designated work areas unless they have proper cause or authorization to be elsewhere.

- Do not allow employees to loiter on the premises or in the building when they are off work.

- Guard will have a current list of employees and the shifts they work. This will be used to verify an employees presence in the building or on the premises.

- Guard is to see that all Rules and Regulations and Safety Rules of the company are followed.

If the guard is forced to reprimand an employee, a report is entered in their personnel file. More than one reprimand notice for the same offense and an employee will be given a pink slip.

BULLETIN BOARDS:

It is a policy of the Company to use the bulletin board to provide its employees with notices of changes in company policy, procedures or other information or [sic] importance.

Employees wishing to post items on the bulletin board must submit the item to the personnel office for approval and posting.

SHIPPING & RECEIVING:

Any person hired as a driver will be given a specific set of Rules and Regulations that apply only to drivers. They will be expected to follow these rules as well as those set out in this handbook.

SAFETY AND ACCIDENTS:

It is the basic policy of NTA to at all times provide a safe place to work for all employees in all departments.

All reasonable actions will be taken to assure safe and efficient work operations. Know your duties, and if you have any questions or suggestions for safer working conditions, notify your supervisor.

Your full cooperation and active participation are required, as safety can only be achieved through the effort of all involved.

In order to maintain the necessary safety requirements of our industry certain rules and regulations are necessary. Your supervisor will review these with you, and they are posted in the plant production areas. Our basic purpose is to produce our printed material safely and efficiently and then to deliver a first quality product to our customers.

The costs of employee injuries and workmen's compensation are growing greater each year. An injury to one of our employees often means the loss of skilled manpower, production, quality and profit.

Workmen's compensation benefits are provided for employees who suffer injury while in the course of their duties. To be eligible for workmen's compensation benefits, such injury must be reported to the office or your supervisor at once and medical treatment will be given by a qualified doctor when necessary.

Safety is a team effort and is similar to a chain. Any weak link in this chain will cause failure to the entire program. We at NTA are concerned with the well-being of

our employees and strive to maintain high standards in providing a safe working area and a healthful climate in which to carry out our assigned duties.

The following plant rules are in addition to the specific Safety Rules and Regulations that apply to individual departments within our company.

- Only authorized persons will operate the forklift (tow motor) and clamp. Riding the forklift or clamp along with the driver is prohibited.
- Avoid having the forklift or clamp pass the yellow lines marked around the presses and other equipment.
- The company will not tolerate speeding or unsafe, playful or irresponsible conduct on the forklift or clamp.
- Failure to use safety equipment properly could result in personal injury and dismissal.
- **theft or destruction of company property will result in immediate dismissal.**
- **Intoxication, drinking or using illegal drugs on NTA premises will result in immediate dismissal. This includes coming to work when you have been drinking or using drugs.**
- Being on premises when not working is not allowed.
- Horseplay anywhere in the plant or on the premises is not allowed. Employees caught doing this will be severly [sic] reprimanded and possibly dismissed.
- Everyone working at NTA in a production related department must wear an Employee I.D. Badge in plain view. Failure to wear your I.D. Badge will be cause for a written warning. If you lose your Badge have it replaced at once through the personnel office.

4. **LADDERS, STEPS AND PLATFORMS** – Keep ladders, steps and platforms free of tools, dust, ink, grease, etc. to assure safe footing.

   Do not sit on or lean against railings. They are provided as hand assists and safety barriers – use them as such. Also they are not to be used to collect rags.

   Use special care on ladders and steps. Always use the hand rails or hand grips when descending ladders, always face the rungs. Never use as a rag holder or for other foreign material.

5. **PAPER ROLLS AND RELATED EQUIPMENT** – On presses with reels-tensions-pasters, avoid walking or standing under the predrive belt or paster carriage or between it and the running roll when the press is in operation.

   On presses with pasters always be careful with knives.

6. **PRESS CONTROLS AND AUXILLIARY EQUIPMENT** – (Electrical controls) Under no circumstances attempt to analyze or correct electrical failures unless you are a fully qualified electrician. Lack of knowledge and improper electrical practices could cause serious injury or death to personnel, and damage to machinery.

7. **GUARDS ON PRESSES AND AUXILLIARY EQUIPMENT** – Always keep guard on and securely fastened. Removal will result in termination.

8. **LONG SLEEVE SHIRTS** – Are very dangerous and can cause personal injury. They are not allowed by pressroom personnel.

9. **LOADING PAPER ROLLS** – Never use clamp truck to load paper rolls on the press. Use the roll dollies and always use lifting bars to load on printing units.

10. **PRESSMAN AND COUNTER-O-VEYOR PEOPLE** – Are the only people allowed past yellow line painted on floor. This area is OFF LIMITS to personnel from other departments and to outside visitors.

11. **KEEP THE PRESS AND PRESSROOM CLEAN!** – This is everyones job – you are supplied time especially for clean up prior to leaving for the day.

12. **ANY DEVIATION** – From these rules, the employee and/or supervisor will be written up.

SAFETY

BATTERY CHARGER AND CHARGING AREA

1. Never unplug the battery charger from the battery being charged when charger is on!

   And never plug a battery to be charged into the battery charger when it is on.

2. Always check water in battery to be charged and make sure it is filled to the correct level. (Water level should be 1/8" to 1/4" above bottom plate with holes in it.) A visual check is good enough.

3. Always replace cell caps after checking water level. And never charge with caps off. Batteries give off a poisonous gas which can be harmful.

4. Keep hydraulic fluid leaks off the floor and area clean.

5. Always be careful of electrically shorting batteries. (Batteries will explode and injure personnel.)

6. DO NOT SMOKE in battery charging area.

7. Under no circumstances attempt to analyze or correct electrical failures on battery charger or batteries unless you are a fully qualified electrician. Lack of

knowledge and improper electrical practices could cause serious injury or death to personnel, and damage to machinery. REPORT TO MAINTENANCE FOR REPAIRS!

8. There is a log book located at the battery charger. Please make the necessary entries in this log so we can monitor batteries.

9. Any deviation from these rules, the employee and/or supervisor will be written up.

SAFETY

AIR COMPRESSORS AND AUXILLIARY EQUIPMENT

1. Keep air compressors and equipment clean and area clean.

2. Never adjust or repair until air compressor is electrically locked out.

3. Always replace guards after cleaning and adjusting.

4. Under no circumstances attempt to analyze or correct electrical failure on bailer unless you are a fully qualified electrician. Lack of knowledge and improper electrical practices could cause serious injury or death to personnel, and damage to machinery. REPORT TO MAINTENANCE FOR REPAIR!

5. Any deviation from these rules, the employee and/or supervisor will be written up.

PRODUCTIVITY AND QUALITY

PRODUCTIVITY IS SOMETHING EVERYONE NEEDS TO UNDERSTAND

What is your stake in the level of productivity at NTA Graphics?

Well, for one thing, the higher the level of productivity, the more satisfying job you have. This satisfaction translates into monetary rewards as well as how you generally feel about your work environment.

Why is this so?

First of all, let's look at what productivity really is. Simplified, productivity is a measure relationship between the output of goods and services and the amount of investment it took to create those goods and services. That investment not only includes costs of labor but also the cost of energy, raw materials and equipment. When NTA Graphics produces more from a given investment, then the rate of productivity goes up. When the output is less from the same investment, productivity goes down. (Excessive waste is the number one cause of decreased productivity at NTA)

WHO REALLY DETERMINES WHETHER PRODUCTIVITY RISES OR FALLS?

Does this mean it's left solely up to those in charge of investment for NTA Graphics to increase its productivity? absolutely not! No matter what your position at work, you can be a contributor to productivity improvement.

Often its [sic] simply a matter of figuring out how to accomplish a given task more efficiently and more effectively. Even the smallest improvements add up to big changes in productivity.

Ingenuity, then is a key to productivity. A person who makes it a habit to think up new ideas is a person who improves productivity day by day in his or her

workplace. As a result of higher levels of output for a given investment, an enterprise is better able to sell its goods or services because a more competitive price is allowed. This keeps jobs thriving and makes better pay possible. Just as importantly, by giving the consumer of the goods and services more value for a given price, improved productivity fights inflation.

QUALITY ACCOMPANIES ALL SINCERE PRODUCTIVITY EFFORTS:

Quality in goods and services is often a subject discussed among consumers, and numerous techniques for quality are preached and practiced. Yet when you think about it, simply an effort to improve productivity is probably the greatest way to assure quality, because efficient performance of the total series of tasks naturally leads to quality output of a particular product or service.

Productivity and quality – the two work together. And speaking of working together, the whole business of the economy and our quality of life hinges on cooperation. Most jobs today are interdependent. While each individual can contribute to productivity improvement, even greater results come when an entire workforce conscientiously applies the concept.

WHAT ARE THE WAYS YOU CAN BOOST PRODUCTIVITY?

Is there a sharing of suggestions on how tasks can be improved in your workplace? Perhaps you can trigger this kind of thinking, whether it's an idea on handling the paperwork in the office or handling materials in the

warehouse; whether it's a way to better organize and report sales calls or improve the flow of the production process.

Wherever you work and whatever tasks you perform, give attention to ways to improve productivity and quality. Share your enthusiasm with your fellow employees and likely they too will catch the "productive fever". And when everybody warms up to this subject, your work environment as well as your overall quality of life are bound to be satisfying!

After signing, cut along the dotted line and return to your supervisor or to the personnel office.

I, the undersigned employee of NTA Graphics Inc., hereby verify that I have read the Employee Handbook. I also confirm that I understand all the company policies and the rules and regulations stated in the handbook. I understand that failure to abide by these rules and regulations will result in severe reprimand, suspension or dismissal of employment.

"I understand that this booklet is not a binding contract, but a set of guidelines for the implementation of personnel policies. I understand that NTA Graphics, Inc. may modify or rescind any of the provisions in this booklet at any time for any reason it sees fit, and may do so with or without prior notice. I also understand that, notwithstanding any of the provisions in this booklet, I am employed on at-will basis. My employment may be terminated at any time, either by me or by NTA, with or without cause. I also understand that no supervisor or

other representative of NTA, other than the Chairman of the Board, has any authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the foregoing."

_____ _____

Date Employee Signature

_____ _____

Date NTA Graphics-Personnel Manager

After signing, cut along the dotted line and return to your supervisor or to the personnel office.

HEARING AID AGREEMENT

EMPLOYEE NAME: _____ DATE: _____

TIME CARD NUMBER: _____

I understand that NTA has and will provide to me for my hearing protection ear plugs. I will wear earplugs at all times while in the press room. These have been supplied at no-cost for my hearing protection.

NTA Graphics has verbally made me aware, posted signs and has provided me hearing protectors for my use at all times while in the press room area.

I release NTA Graphics of any and all damages because I failed to adhere to the OSHA rulings, or wear the hearing protectors while in the press room.

_____ _____

Date Employee Signature

SHOE AGREEMENT

EMPLOYEE NAME: _____ DATE: _____

TIME CARD NUMBER: _____

Shoes will be supplied to me at no cost for use while an employee of NTA Graphics. I agree to use and will be responsible for loss or abuse.

NTA will buy one pair of shoes after my 90 day probationary period has been completed.

I realize should my employment end the very last check will be held until shoes are returned.

I understand and accept NTA Graphics conditions for the use of the shoes.

X _____
Signature

After signing, cut along the dotted line and return to your supervisor or to the personnel office

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UNIFORM AGREEMENT

EMPLOYEE NAME: _____ DATE: _____

TIME CARD NUMBER: _____

Uniforms will be supplied to me at no cost for use while an employee of NTA Graphics.

I agree to use and will be responsible for the replacement at cost for loss or abuse.

This will be taken at the time of loss or abuse from my paycheck and the damaged uniform will be mine to keep.

I realize should my employment end the very last check will be held until all uniforms are accounted for.

I understand and accept NTA Graphics conditions for the use of uniforms.

X _____
Signature

TOOL AGREEMENT

EMPLOYEE NAME: _____ DATE: _____

TIME CARD NUMBER: _____

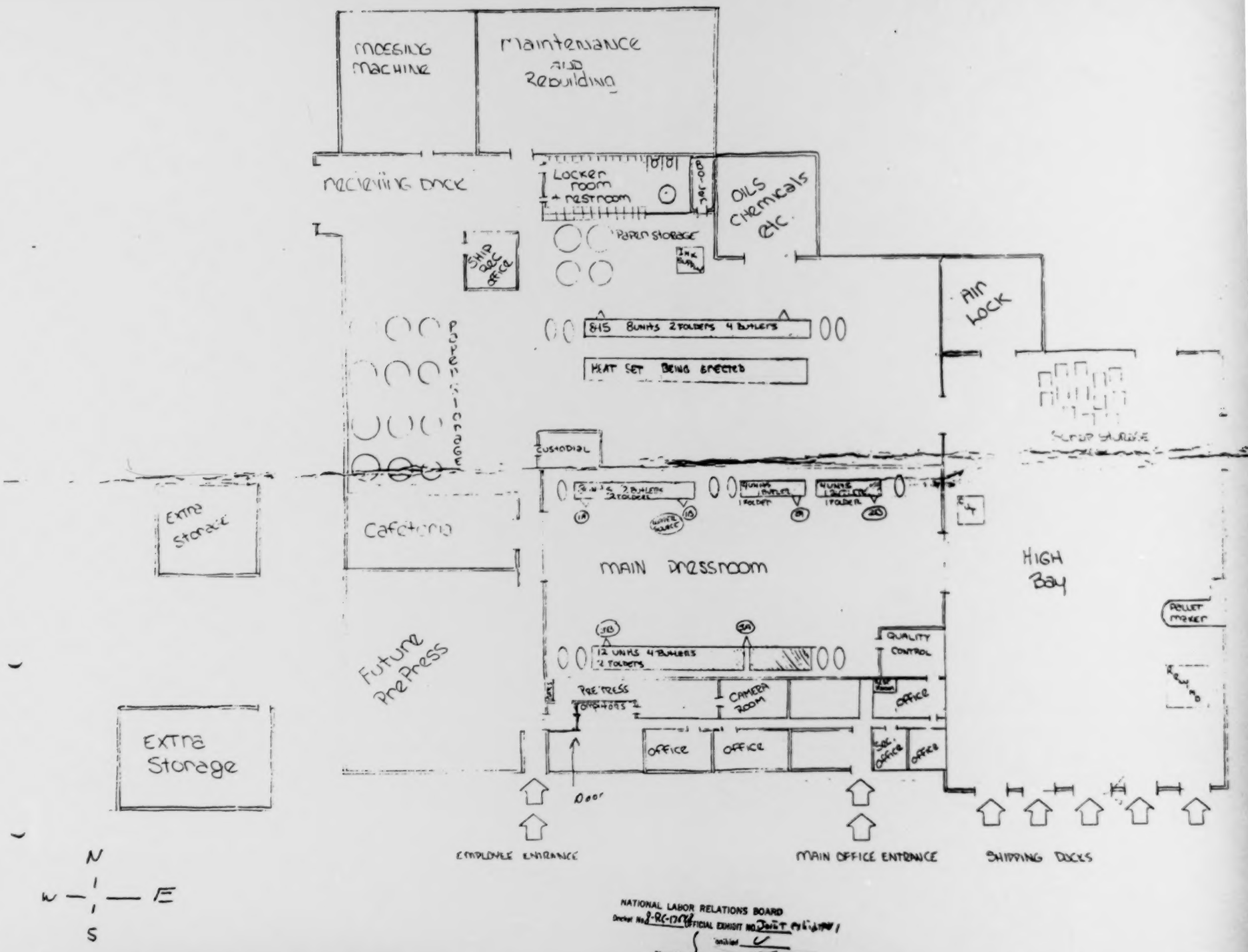
Tools will be supplied to me at no cost for use while an employee of NTA Graphics.

I agree to use and will be responsible for the replacement at cost for loss or abuse. This will be taken at the time of loss or abuse from my paycheck and the damaged tool will become mine to keep.

I realize should my employment end the very last check will be held until all tools are accounted for.

I understand and accept NTA Graphics conditions for the use of the tools.

X _____
Signature



NATIONAL LABOR RELATIONS BOARD
Docket No. 9-RC-17088 OFFICIAL EXHIBIT NO. Joint Exhibit 1
Identified
Disposition: Received
Rejected
In the matter of NLRB Conference
Date 2-8-80 Witness Reporter
No. Pages

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No. 93-892

In The

Supreme Court of the United States

October Term, 1993

NTA GRAPHICS, INC.,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

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NOTICE!

DO NOT ATTEMPT TO OPERATE OR SERVICE THIS PRESS UNTIL YOU HAVE READ AND UNDERSTOOD THE INSTRUCTIONS CONTAINED IN THIS MANUAL.

HARRIS V-25

WEB OFFSET PRESS

OPERATING MANUAL

NATIONAL LABOR RELATIONS BOARD

Docket No. 8 RC-13648 OFFICIAL EXHIBIT NO.
Petitioner 1

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In the matter of NTA Graphics Incorporated
Date 7-9-87 Witness Tremonti Reporter __ No. Pages

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HARRIS V-25 OPERATOR'S MA

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SECTION I

DESCRIPTION AND PRINCIPLES OF OPERATION

GENERAL

This manual should be read and understood thoroughly before operating your new press. The various sections of this manual will describe the press itself, the operating controls, operating procedures, maintenance and a troubleshooting chart. The instructions are concise and complete for operation of the press. Recommendations to assure the best care and performance are included. As you read the instructions, keep in mind that maximum performance and service depend on the owner and operator. May we suggest that you practice the step by step instructions to be certain you are familiar with each operation.

DESCRIPTION

The Harris V-25 web offset printing press is a web-fed, blanket-to-blanket, lithographic offset press which simultaneously and continuously prints both sides of the web (perfecting press). Its folder gathers, folds, cuts and counts the printed products and delivers them on a conveyor belt. A V-25 press with the 32-page JF-25 folder and upper former can combine from one to eight printing units, depending upon required printing capacity. These units are normally installed in line. Each unit prints either a standard four-page newspaper or an eight-page tabloid (max. tabloid 6-webs) at speeds up to 25,000 impressions per hour.

When multicolor printing is desired, two or more printing units operate to print successive impressions on a web. Both lateral and circumferential adjustments are provided to assure proper register between impressions.

Printed webs from all printing units move horizontally to a jaw folder. This unit gathers, center folds and cuts the webs. It then half-folds (quarter-folds with quarter-folder engaged) to deliver finished copies. A conveyor transports these copies from the folder.

MILL ROLL STANDS

The V-25 includes a mill roll stand assembly (Figure X1-1) for each printing unit. The roll stand is capable of handling rolls to 36 inches in width and up to 40 inches in diameter.

FIGURE X1-1 – *MILL ROLL STAND*
[Omitted In Printing]

V-25 PRINTING UNIT

Printing is done when the web is fed between the blanket cylinders which simultaneously prints both sides of the web. The ink and water fountains and their associated rollers are housed in the printing unit. Also housed in the printing unit are the individual ink and water fountain drive motors and throw-off control air cylinders for the form rollers. One printing unit is capable of printing four pages of standard one-color print. Each additional printing unit will expand the capability of the press either to print an additional color or to add four pages of one-color printing capacity as desired. Provisions have been made

to silence a printing unit without interrupting the drive to the other units. Each printing unit is supplied with its own control panel. Provision has been made on the work side of the unit to adjust each plate cylinder both laterally and circumferentially. This insures correct back alignment of the printed material. Adjustable compensator rollers are located on the folder side of the unit where the web exits from the printing unit. The compensator provides for correct cutting of the web at the folder. Detailed descriptions of the rollers in the printing unit, the ink and water distributors, and the compensator are given in the paragraphs that follow.

FIGURE X1-2 – *V-25 PRINTING UNIT*
[Omitted In Printing]

PLATE AND BLANKET CYLINDERS

The V-25 printing unit contains upper and lower plate and blanket cylinders (Figure X1-2). The plate cylinders allow for quick plate changes. One, two, or four page (tabloid) plates are locked into position by means of a quick set and release plate lockup. The rubber-faced blanket cylinders transfer plate images from the printing plates to the web. One blanket cylinder acts as an impression cylinder to the other.

BEARERS

Bearers between both plate and blanket cylinder (Figure X1-3) assure long press life, minimize printing unit disturbances and facilitate blanket and plate packing. Correct bearer pressure between cylinders is essential to obtain proper printing pressure for clear, sharp printed

images, The bearer pressure is preset at the factory, will be checked by the erector, and will rarely require further adjustment. Bearer pressure adjustments should not be attempted unless the operator fully understands the system.

FIGURE X1-3 – *PRINTING UNIT BEARERS*
[Omitted In Printing]

INK SYSTEM

Each printing unit has an upper and lower ink fountain (Figure X1-4 Photo). These ink fountains are adjustable through a series of 25 fountain keys which allow the pressman to control ink flow across the plate. Each ink fountain roller is driven by a separate gear motor to provide close control of inking. The inking system consists of one ink fountain roller which rides in the ink fountain, one ductor roller which conveys ink from the fountain roller to the rest of the system – five distributor rollers, two vibrator rollers, and two form rollers.

FIGURE X1-4 – *INK and WATER DISTRIBUTION*
[Omitted In Printing]

WATER SYSTEM

Each printing unit also has an upper and lower water system. This system applies the proper amount of dampener solution to the non-image areas of the plate surface. The dampener solution repels ink, thus enabling the non-image areas to run clean, leaving the printing image sharp and clear. The water fountain roller, which is driven by a motor, collects dampener solution on its surface as it rotates. As it turns, the fountain roller carries

the solution to the cloth covered ductor roller which alternately contacts the fountain roller then the vibrator roller. The solution then is transferred from the vibrator to the water form roller which in turn applies it to the plate. The water system is designed so there is continuous circulation of the filtered solution.

COMPENSATORS

Two compensating rollers and a compensator adjustment (Figure X1-5) comprise the compensator. The rollers and adjustment are located on the folder side of the press unit. When running color, a color image is applied to the web by one printing unit, and the other color is added in the following unit. To insure that the two colors are in register to provide a clear and sharp image, the operator can use the compensator to adjust color register between units. Adjusting the compensating rollers lengthens or shortens the web path thus changing the distance it must travel to the following printing unit. This will cause the image from the first printing unit to change its point of contact with the image at the second printing unit. By observing a finished product and operator can now move the image back or forward as necessary to achieve an exact register of color. The same procedure is used to effect correct cutting of the web at the folder. This procedure may be used to register colors on both sides of the web. To register color on one side of the web, register adjustment must be made through the circumferential register controls on the work side of the press.

FIGURE X1-5 – *COMPENSATOR*
[Omitted In Printing]

INFEED

The web infeed of the press unit (Figure X1-6) is controlled by the infeed lever which engages and disengages the infeed idler roller from the infeed roller. When moved toward the roll stands of the press, it disengages these rollers so that the web can be threaded. When moved toward the delivery end of the press, it engages the web to cause feeding when the press is operated.

FIGURE X1-6 – *INFEED*
[Omitted In Printing]

JF-25 FOLDER

The folder (Figure X2-1) is capable of producing either a standard, tabloid, or quarter-folded product. The folder and quarter-folder are engaged and disengaged by separate clutches on the lower folder assembly. One clutch for the folder assembly, the other for the quarter folder. An electrical counter counts each folded signature.

The standard folding operation begins when the web is routed over the web lead-in rollers, under the gathering roll, over the roller top of former, through the trolleys (where a slitter blade slits the web to tabloid width if desired), and down the former into the nipping rollers. The former folded web (or slit web for tabloid) is pulled around the cutting cylinder by pins spaced across the width of the cutting cylinder. These pins are projected from the cylinder by a cam mechanism to pierce the web and keep the sheets correctly positioned until they pass through the cutting mechanism. The tucker blade on the cutting cylinder tucks the web into the jaw blades of the jaw cylinder, and the cutting knife cuts the former folded

web at the proper point. The jaw cylinder takes the cut-and-folded signature from the cutting cylinder and carries it around and through the hold-down rollers and lays it down on the conveyor assembly or directs it to the quarter folder table. An anti-jam switch is located on the quarter folder frame above the quarter folder feed rollers. In case of a paper jam at this point, the paper pressure against the switch pin will actuate the switch to stop the press. Detailed description of the trolley, the former, conveyor, and quarter folder are given in the paragraphs that follow.

FIGURE X2-2 – *JF-25 FOLDER*
[Omitted In Printing]

TROLLEY

The trolley assembly (Figure X2-2) is located above the roller-top-of-former. The trolley shaft supports three rollers and a slitter knife. The rollers hold the web securely against the roller-top-of-former and the slitter knife slits the web in tabloid operation. Each trolley roller and the knife can be adjusted on the shaft by loosening its clamp bracket. To disengage the entire assembly, the shaft is rotated by a throw-off handle located on the folder frame.

FIGURE X2-1 – *TROLLEY ASSEMBLY*
[Omitted In Printing]

FORMER

The former provides a smooth guiding surface for the web to begin its fold. The web folds over the former and passes through the forming rollers to the nipping rollers,

where it is creased and fed to the cutting and jaw cylinders of the folder.

CONVEYOR

The conveyor assembly delivers the finished product from the folder in a uniform pattern. A counter is also provided to hold every twenty-fifth product to facilitate in counting newspapers. The papers ride on pulley driven belts supported by rollers. The rollers are adjustable to provide for varying number of webs.

QUARTER FOLDER

The heavy duty quarter folder when used becomes part of the folding operation. It provides for quarter-folding of the standard or tabloid signature. The quarter folder is put into operation by engaging the quarter folder clutch, positioning the quarter-fold stripper fingers and removing the half fold cam. When the quarter folder is operating, the signature is routed from the jaw cylinder to the quarter folder through the quarter-fold feed rollers. The quarter folder tucker blade tucks the standard-folded product between the folding rollers where it is quarter-folded, creased, and dropped on the conveyor assembly by the quarter folder fan. A side lay adjustment and an adjustment for the fold rollers are located on the work side of the quarter folder.

V-25 MANUAL

This section described in some detail the electrical controls used in the operation of the V-25 press. The controls

and control functions on this press conform to the American National Standards Institute (ANSI) B65.1-1972 standard.*

The main operating controls for the V-25 are located in the Master Folder Control Panel (Figure X-3-1) located on the work side of the folder; the Unit Drive Station Panel (Figure X-3-2); and the Printing Unit Control Panel (Figure X-3-4) which are both located on the work side of the printing unit. There is also a drive control cabinet with both amperage and voltage indicators for the main drive motor and an indicator light showing power is available to the drive control cabinet.

MASTER CONTROL PANEL (Figure X-3-1)

The Master Folder Control Panel contains those functions necessary to make the press drive motor run in the forward direction. Reversing (an optional feature) of press motion is not possible from the Master Folder Control Panel.

The Master Folder Control Panel contains the following:

> Power Indicator Light: A red warning light indicates that the press is receiving power from the drive control cabinet and is lit when the power switch is ON.

---

* *American National Standards* Safety Specifications for Controls and Signaling Devices for Printing Presses *ANSI B65.1-1972* Available from: American National Standards Institute, 1430 Broadway, New York, New York 10018.

Power ON-OFF Switch: Allows electrical operation of the press. In the OFF position, none of the electrical controls will function.

PRESS DRIVE CONTROL FUNCTIONS

SAFE (Green) – A maintained contact push-button which, when depressed, prevents the press from being started or, when the press is moving, prevents further increase in speed (Speed-lock).

When the press is at a standstill, depressing a SAFE push-button at any station makes it impossible to start or move the press from any push-button station. A steady green safe light at the folder and at the location where depressed will be lit, indicating the press is safe and can be worked on to make adjustments.

Speed-lock occurs when the press is running at a continuous desired speed. Depressing any SAFE push-button will lock the press at that speed and will light the associated green safelight on the unit and folder. This will not permit any further acceleration from the FASTER push-button until the READY push-button is again depressed. The press may be slowed down or stopped independent of the SAFE push-button setting.

READY (Black) – A maintained contact push-button which, when all *READY push-buttons are depressed, establishes those permissive circuits enabling the press to be started. The SAFE and READY push-buttons in a given station are interlocked to release each other.* Any *SAFE push-button prevents starting the press; ALL READY PUSH-BUTTONS MUST BE DEPRESSED TO PERMIT STARTING.*

When all READY push-buttons are depressed while the press is at standstill, the READY lights at all stations will be flashing red, indicating the press is ready to run.

FASTER (Yellow) – A momentary contact push-button located on the folder which increases press speed as long as this push-button is depressed and the press is in continuous run. Continuous depression of the push-button will eventually bring the press to maximum press speed.

Depressing the FASTER push-button during continuous run will cause the press to accelerate smoothly and run continuously at the speed established when the FASTER push-button is released.

When in continuous run and Speed-lock (SAFE depressed), depressing the FASTER push-button will not increase the established press speed.

FIGURE X3-1 – *V-25 FOLDER MASTER CONTROL PANEL*
[Omitted In Printing]

FIGURE X3-2 – *V-25 UNIT DRIVE STATION PANEL*
[Omitted In Printing]

FIGURE X3-4 – *V-25 PRINTING UNIT CONTROL PANEL*
[Omitted In Printing]

SLOWER (Black) – A momentary contact push-button which decreases press speed as long as it is depressed, eventually bringing the press to inching speed. When the INCH push-button is depressed and the press is rotating, simultaneous depression of the SLOWER push-button with the depressed INCH push-button will bring the press into continuous run.

Note: To bring the press to continuous run, depress the INCH push-button which will result in a warning period; then press rotation. *After* the press is rotating in INCH, simultaneously depress the SLOWER push-button, then release both buttons and the press will continue to run. this is the *only* recommended method of bringing the V-25 into continuous run.

Once in continuous run, operation of the SLOWER push-button becomes inoperative at the inching speed and the press can *only* be stopped by depressing the STOP push-button. If the FASTER and SLOWER push-buttons are simultaneously depressed, the SLOWER push-button takes precedence.

INCH (Light Gray) – A momentary contact push-button which, when in the READY mode, moves the press at inching speed as long as the INCH push-button is held depressed.

When all READY push-buttons are depressed, depressing an INCH push-button will cause the audible warning to be sounded prior to press movement. The audible signal allows sufficient time for pressmen to stand clear. Following the warning signal, the press will immediately respond to the INCH push-button as long as it is held depressed. The press will immediately stop when the INCH push-button is released.

Note: Response to succeeding inch operations is immediate without the audible warning signal, but if a permissive period (approximately 4 seconds) elapses between inching operations, the system will automatically reset, reinstating the audible warning signal.

REVERSE (Yellow) – [Optional] A momentary contact guarded push-button which, when in the READY mode, moves the press in a reverse direction at an inching speed as long as the push-button is held depressed.

When all READY push-buttons are depressed, depressing the REVERSE push-button (located only on the Unit Drive Station Panels) will cause the audible warning to be sounded prior to reverse press movement. This audible signal allows sufficient time for pressmen to stand clear. Following the signal, the press will immediately respond to the REVERSE push-button and will continue to run in REVERSE at inching speed so long as the REVERSE push-button is held depressed. The press will stop immediately when the REVERSE push-button is released. REVERSE WILL NOT FUNCTION IF FOLDER CLUTCH IS NOT DISENGAGED.

Note: Response to succeeding reverse operations is immediate without the audible warning, but if a permissive period of approximately 4 seconds elapses, the system will automatically reset, repeating the audible warning signal before the press will respond to the REVERSE push-button. The SLOW push-button will not put the press in continuous reverse.

PRESS PRINTING CONTROL FUNCTIONS

The Master Folder Control Panel contains a series of master printing press controls permitting *remote* control of all unit printing functions. The switches for the printing functions at the Master Folder Control Panel are illuminated rocker switches which control *only* the printing unit whose related functions have been placed in the

AUTO position the Unit Control Panel. When the rocker switch is lit, that printing function is active.

SEQUENCER Switch – A momentary spring loaded, center-OFF switch with a PREPARE and RUN position. If the Sequencer Switch is pushed to PREPARE, all printing functions come on with the exception of IMPRESSION, which is inhibited. If the Sequencer Switch is pushed to RUN, all functions can come on, including IMPRESSION.

The Sequencer Switch is the bottom rocker switch which allows operation of the printing functions by remote control in a pre-established sequence.

Note: The sequence established by the cams can be altered, however, it is recommended that factory settings be maintained unless changed by a qualified HARRIS representative.

Automatic sequential operation of the desired printing functions on any selected printing unit is remotely accomplished when the press is in the READY mode by:

a) (Unit Control Panel) depressing the desired unit printing function rocker switches to the AUTO position, then

b) (Folder Control Panel) depress the desired remote printing function switches to the AUTO position, and then

c) (Folder Control Panel) momentarily depress the SEQUENCER switch to either; PREPARE, if all printing functions except IMPRESSION are desired or; RUN, if all printing functions including IMPRESSION are desired.

Manual immediate operation of the printing functions on any selected printing unit is remotely accomplished when the press is in the READY mode by:

a) (Unit Control Panel) depressing the desired unit printing function rocker switches to the AUTO position, then

b) (Folder Control Panel) depress the desired remote printing function switches to the ON position at which time each unit's selected printing function will operate.

To defeat the automatic remotely energized printing functions, it is necessary to either:

a) depress a STOP push-button

b) push a unit printing function rocker switch desired to OFF, or

c) push the folder printing function rocker switch desired to the OFF position.

Note: The SEQUENCER, when operating in the PREPARE or RUN mode, rotates a cam through a 360° cycle turning on all the printing control functions that have been placed in AUTO. (It should be further noted if the folder's printing function rocker switch is in the ON position, the printing function will come on immediately after the STOP button is released.) If the press is stopped during cam rotation, the printing functions which the sequence cam has gone through will not go back on. However, those functions not completed in the cycle will be completed. It is therefore recommended once the remaining cycle is completed, depress the STOP push-button to turn off those functions subsequently energized.

The Master Folder Control Panel's printing function switches remotely control the unit control printing functions. When each printing function switch is in the AUTO position, all equivalent functions on each selected unit will operate remotely in the sequence established by the cams.

PRINTING CONTROL FUNCTIONS – the printing functions are: WATER FOUNTAIN, WATER FORMS, INK FORMS, INK FOUNTAIN and IMPRESSION. The unit printing function switches are maintained rocker switches in either the AUTO, OFF or ON position and have related switches on the Master Folder Control Panel.

IMPRESSION – The function which brings the two blanket cylinders together and squeezes the web. The IMPRESSION function helps pull the web though the units and is thrown on or off by pneumatic air cylinders.

WATER FORMS – When energized, one water form roller makes contact with and supplies water to the plate cylinder. There is an upper and lower water distribution system with the form rollers thrown on or off by pneumatic air cylinders.

INK FORMS – When energized, two ink form rollers make contact with and supply ink to the plate cylinder. There is an upper and lower ink distribution system with the form rollers thrown on or off by pneumatic air cylinders.

WATER FOUNTAINS – A driven roller in a water fountain distributes water in the upper and lower system respectively. The water fountain rollers, once set by the control knobs do not track with press speed.

INK FOUNTAINS – A driven roller in an ink trough distributes the ink in the upper and lower system respectively. The ink fountain rollers track with and are a function of press speed if the RUN Track) mode is selected.

AUTO Light (Unit Control Panel) – When all the unit printing functions on a given unit, including IMPRESSION, are on AUTO, this unit light is illuminated.

Speed Control Knobs (Unit Control Panel) – These vernier knobs are the ink and water (upper and lower) fountain speed controls. This controls the fountain roller speeds from zero to maximum available speed.

These controls are used to adjust the proper balance of water to ink which eventually reach the plate.

INK, MAKE-READY and RUN (Master Folder Control Panel) is a two position toggle switch.

> When in the MAKE-READY position, maximum power is supplied to the unit ink speed control knobs. The ink speed control knob then controls the unit ink fountains within the range selected on the vernier.
>
> When in the RUN position, a proportional amount of power is supplied to the ink fountain motors in direct relationship to press speed. This varies the ink fountain speed with press speed.

OTHER ELECTRICAL FUNCTIONS

TACHOMETER – Press speed expressed in impressions per hour.

COUNTER – Two counters keep track of total and good papers going through the press. The count difference aids in determining waste paper. A manual ON-OFF switch controls the good count. (Some presses contain only a total counter.)

MOTOR OPERATED SIDELAY CONTROL
(Optional)

For *Single Ended Presses* – Sidelay controls are located on the Master Folder Control Panel. Sidelay motors can be operated only when the press is running.

Roll stand selection is made by the folder mounted rotary selector switch. The switch controls the roll stand number to be adjusted. Below the selector switch is a WORKSIDE-GEARSIDE direction knob which trips back to a neutral position when not held in place. First the ROLL STAND requiring sidelay is selected, then the WORKSIDE-GEARSIDE knob is held in place until the needed lateral movement is complete. When the roll has reached the end of its sidelay travel, automatic limit switches prevent further sidelay movement.

For *Double Ended Presses* – this is an identical operation for sidelay control to that of single ended presses. However, each roll stand has a toggle switch located on the roll stand junction box which permits the roll stand to "select" the folder from which it will be controlled. The pressman must make this selection at the beginning of the run.

WEB BREAK DETECTORS (Optional). The press speed at which detectors become active is adjusted at press installation. No alteration to this system should be made without first consulting with Harris Engineering.

The web break detector, at an active speed, will cause the press to stop if it does not detect a web. A WEB-OUT light on the Master Folder Control Panel will indicate that some detector does not "see" a web, whether above or below the active speed.

A unit web break detector may be defeated, above active speed, only by having the unit IMPRESSION-OFF. Under any other condition, the detector is active and will cause the press to shut down if no web is detected in the unit.

DOUBLE ENDING (optional for ANSI presses only). Selection of the desired double ending configuration is *electrically* achieved by rotating one selector switch mounted on the double ender control box. This box is located on top of the printing unit closest to the center of the press.

WARNING

ELECTRICAL PRESS CONFIGURATION MUST AGREE WITH MECHANICAL PRESS CONFIGURATION AS DICTATED BY THE PRESS LINE SHAFT CLUTCH WHICH IS DISENGAGED. INADVERTENT STARTING OF A PRESS MAY OCCUR BECAUSE ONE "PRESS" MAY BE ELECTRICALLY CONTROLLED FROM "THE OTHER PRESS". IF THIS ELECTRO-MECHANICAL AGREEMENT DOES NOT OCCUR, PROPERLY MATCH THE ELECTRICAL TO MECHANICAL CONFIGURATION.

Operation of the double ending switch electrically divides the press into two completely independent presses with respect to electrical functions. The indicator plate associated with the switch has numbers representing printing units. The switch is positioned *between* the two appropriate printing unit numbers defining the electrical dividing line between the "two presses".

Later serial number presses have a line shaft clutch detection system. This inhibits the press drive from starting unless there is agreement between the electrical "clutch" (double-ending switch) and at least one line shaft clutch which is in the declutched position.

CAUTION – Whenever all units are directed to one folder it is essential that the unused folder power switch be turned off. Failure to do so can result in permanent damage to the unused drive control. In the event that this precaution is not observed, protective circuitry should prevent damage. An indication that this protective circuitry has operated is that the unused drive will not function when an attempt is made to use it to drive the press. The dynamic brake resistor thermal overload circuit breaker must be manually reset.

DUPLEXING (Optional)

On some installations it is necessary to use the combined horsepower of two drive motors to run a large number of units configured as one press.

To accomplish duplexing, a control switch normally located in one of the two drive cabinets must be operated. This switch has three (3) positions –

1 – A center "OFF" position or "simplex" made when the two drive motors run separate presses.

2 – A second position where the left folder control panel becomes the master operating position for both motors.

3 – A third position where the right folder control panel becomes the master operating position for both motors.

When either of the duplex switch positions are selected, both drives will respond simultaneously and in synchronism to any push-button operation.

DRIVE CONTROL CABINET – Contains an ammeter, voltmeter, and a power indicator light. This cabinet is usually located away from the press proper. When the indicator light is energized, power is available to the drive control cabinet.

WARNING

ONLY QUALIFIED ELECTRICIANS SHOULD WORK ON OR NEAR ELECTRICAL COMPONENTS.

SPECIFICATIONS

Printing area ..... 22¼ x 35½ inches
Printing rate ..... 25,000 impressions per hour
Cylinder circumference (cut off) ..... 22¾ inches
Blanket cylinder gap ..... ¼ inch
White roll diameter ..... 40 inch maximum
Plate cylinder undercut ..... .007 inch
Blanket cylinder undercut ..... .070 inch

Register Control:
Sidelay ..... ± 3/16 inch
Circumferential ..... ± ⅛ inch
Size of plate ..... 23⅝ x 36 inches
Plate thickness ..... .009 inches

Size of blanket.....25¼ x 36½ inches
Blanket thickness (includes packing with non-compressible blankets).....073 to .074 inches

Dampening System:
Fountain roller.....Motor-driven
Control.....Infinitely variable (speed not effected by press speed)
Water level control.....Automatic

Inking System:
Fountain roller.....Motor-driven
Control...Infinitely variable trimming (maintains speed ration in relation to press speed)
Number of rollers in ink train.....11

Folder:
Type.....Jaw folder with heavy duty quarter fold
Product...Standard broadsheet, tabloid and quarterfold
Delivery.....Creeping belt

Press Drive:
Power requirements.....220/240 volts, 3-phase AC
Motor.....Variable speed DC (through AC-DC rectifier)
Motor size (1-2 printing units with folder).....30Hp
Motor size (3-4 printing units, with folder).....50Hp
Motor size (5-6 printing units, with folder).....75Hp
Motor size (7-8 printing units, with folder).....100Hp

Length:
One printing unit with roll stand and folder....14'-7¾"
Additional printing units with roll stands.....9'-0"
Width (folder including quarter folder).....7'-8¾"
Height.....6'-8¾"

Weight:
Folder.....4900
Printing unit.....6210
Single position mill roll stand (excluding mill roll)..400

SECTION II

SUGGESTED PRESSROOM SAFETY PRACTICES

Accident prevention is an activity which must be planned, systematic, continual and tailored to individual pressroom needs. Everyone should actively participate, recognize his role and organize himself and his work for a safe environment.

The foremost safety objective is to prevent accidents which could result in injury or death, disrupt production or damage facilities, equipment or property. Today, new materials, processes and higher speed equipment add to the potential accident exposure in the printing industry. To maintain production and reduce injury potentials, accident prevention must be an integrated and equal function of the printing operation.

Legislation from the federal, state or local level dictates many of the requirements which are minimal to reduce personal injury.

In the past it has been found that 85% of all industrial accidents are caused by UNSAFE ACTS and 15% by UNSAFE CONDITIONS. In this instance people appear to be their own worst enemy.

The following is a listing of some of the UNSAFE ACTS or CONDITIONS relating to a pressroom environment and are the usual cause classifications for personal injuries:

UNSAFE ACTS – 85% of accidents

1. FAILURE TO PROPERLY SHUT DOWN EQUIPMENT
   This refers to failure of properly placing the press in SAFE/READY or STOP position when working on the units; or failure to turn equipment off when not in use.

2. FAILURE TO WARN OTHERS OF YOUR INTENDED ACTIONS
   This includes failure to properly signal or display appropriate warnings of an individual's intent to work in an area which may present a danger to him. This can include verbal or printed warning, or use of lights or warning signals. Action should be taken to let others know when you are doing some operation which will possibly endanger them.

3. FAILURE TO WEAR PERSONAL PROTECTIVE EQUIPMENT
   This includes use of foot, eye, hearing and head protection, and other equipment where an exposure may exist.

4. WEARING DANGEROUS ACCESSORIES AND UNSAFE CLOTHING
   Jewelry, wristwatches, loosely rolled sleeves, shirt-tails, ties, belts or other apparel have historically contributed to severe personal injuries around rotating and reciprocating machinery.

5. OPERATING WITHOUT PROPER AUTHORITY
   Operation of equipment or use of tools without proper indoctrination of authority is a major cause of personal injury.

6. OPERATING AT UNSAFE SPEEDS
   Use of excessive speeds or taking short cuts beyond the recognized safe limits of the equipment can lead to personal injury and/or property damage.

7. USING DEFECTIVE EQUIPMENT
This covers use of tools, machinery, or material which may become defective through normal wear, abuse or otherwise made unsafe. Included is improper use of tools and using tools in an unsafe manner for which they were not designed.

8. UNSAFE STORAGE AND OTHER HAZARDOUS CONDITIONS
Overloading of pallets or tables; improper storage of paper rolls and equipment parts or obstructing aisleways unnecessarily triggers accidents. Examples of hazardous conditions could be smoking where flammables are stored; use of solvents which irritate the skin or are excessively flammable; and allowing housekeeping conditions to deteriorate by not cleaning away oil, water, grease, inks, paper, etc.

9. UNSAFE POSITIONS
Those exposures resulting from working in awkward positions which could result in injury. This could involve movement which obstruct the movements of others, or entering an unsafe enclosure with regard to temperature, gas, exposed electrical power lines, or the method of physically handling materials.

10. HORSEPLAY
Improper conduct, such as teasing, abusing, startling fellow workers, playing of practical jokes, quarreling, etc. are another major cause of industrial injury.

11. WORKING ON MOVING EQUIPMENT
Oiling, cleaning and adjusting equipment while it is in motion; working on electrically charged equipment without shutting off the power; or the unnecessary handling of material when in the act of being processed by moving machinery.

UNSAFE CONDITIONS – 15% of accidents

1. LACK OF PHYSICAL GUARDS
   Because of the movement of material through the press, there are some areas which cannot be physically guarded as well as other portions. Operators should be made aware of exposed areas. Equipment should not be operated with the guards removed.

2. INADEQUATE GUARDS
   More often than not, a partially guarded hazard is more dangerous that one that has no guard at all. This may build a false sense of security and someone may fail to take those safety precautions ordinarily needed if no guards were used.

3. MACHINES AND TOOLS
   The condition and maintenance of machines and tools can effect the probability of an accident. They should be checked for wear, repair or replacement depending on the condition and exposure it represents.

4. HAZARDOUS ARRANGEMENTS OF MACHINES AND AUXILIARY EQUIPMENT
   This refers to equipment layout, space allocations for floor and work areas, fire exits and aisles. Tool and material storage, platform and table loads and waste product disposal facilities should be evaluated.

5. ILLUMINATION
   Lighting should be evaluated for need, such as glare, coloration, excessive or inadequate lighting, shadows and contrast.

6. VENTILATION
   Air movement should be evaluated for movement or control of airborne by-products of the printing industry.

7. NOISE
   The exposure to noise levels has been legislated and controls have to be established.

Larger printing houses have organized safety programs to meet their specific needs and many have no program. Control of personal and property losses is important no matter the size of the facility. For this reason, a list of SUGGESTED SAFETY PROCEDURES have been included for your study and application.

As a press operator you have a responsibility to members of your press crew. They should be knowledgable and abide by the safety precautions for your press area. Each member should know where the various SAFE/READY and STOP buttons are located, where the potentially unsafe press areas are, and be made aware how to work safely around the press. New press crew members should be briefed on safety practices and you should set a good example by following your safety practices.

Harris presses have been designed with the elimination of unsafe conditions foremost in mind. There has been a concerted effort to provide safeguards without impairing the function and operability of the press.

This information is designed to provide accurate and authoritative information in regard to pressroom safety considerations. Harris Intertype-Cottrell is not engaged in rendering legal or professional safety and health services. If expert assistance is required in these areas, the services of that of a competent safety and health professional or that of counsel should be sought.

SECTION II A
SUGGESTED SAFETY PROCEDURES

OPERATING PROCEDURES

1. Replace all guards before operating equipment.

2. Do not reach into the press to make adjustments while equipment is running unless it is specified as an "on-the-run" procedure with a warning posted in the instruction and on the press.

3. Do not reach into the folder or delivery areas to make adjustments, remove jams or grab signatures while the equipment is operating.

4. Keep fingers, loose clothing, jewelry, neckties, and long hair clear of nips, slitters, trolley rolls, etc., when operating and particularly when webbing up. (Note: Long hair should be confined when in the press area.)

5. Check for persons, tools or equipment between all portions of the press, i.e., printing units, folder, roll stands, gear and work sides before operating press for run.

6. Unauthorized persons must not operate press and must be kept away from press while it is operating. Appropriate signs should be posted.

7. Head protection should be worn where there is danger from falling and flying objects with appropriate signs posted in designated areas.

8. If operating conditions exist where there are continuous excessive noise levels which cannot be reduced, personal protection equipment should be provided and used. Appropriate warning signs should be posted.

9. Periodically check the plates for any looseness or cracks.

HOUSEKEEPING

1. All platforms, floors, stairs, railing surfaces, equipment, aisleways, etc., must be kept clear of unnecessary obstructions, clean and free of grease, oil, dirt, dust, ink, rags, paper, wearing apparel, etc.

2. Provide storage space for ink cans, tools or other supplies used for press operations where they will not cause obstructions.

3. Mark permanent aisles and passageways.

4. Before starting the press, remove all dead plates, tools and equipment from the press area.

ELECTRICAL

1. Only qualified maintenance personnel should replace fuses and circuit breakers.

2. Use extreme caution around the electrical equipment to prevent fire and electrical shock.

3. Check electrical connections for tightness and bare connections on a regular basis.

4. When electrical equipment is being worked on, circuits should be de-energized before any work is attempted. Switches should be opened and equipment circuit proof tested for de-energization before work proceeds. The lock-out should be removed only by the person who installed it.

5. Keep electrical areas and equipment dry.

GENERAL

1. Do not exceed the established posted building floor loads.

2. Report all personal injuries, no matter how minor.

3. Empty oil pans periodically as needed.

4. Periodically check all bolts for looseness.

SECTION III

MAKEREADY PROCEDURE

GENERAL

Makeready is the organized and systematic setting up and adjusting of the press so that it will efficiently and economically produce a quality product with a minimum of spoilage. It is the procedure followed whenever a new job is put on the machine.

Extreme care must be taken in every step of the procedure to see that it is done properly. Careless, inaccurate adjustments or failure to perform each detail can cause very serious consequences to the job, to the press and to the press crew.

Members of the press crew or anyone performing maintenance on the press should be cautioned to always locate and retrieve any dropped tools or parts before putting the press into motion. This policy can prevent expensive damage to the press. Makeready is a team effort. The head pressman is in charge of the operation. Each member of the press crew is assigned a series of duties to perform. The efforts of the crew must be coordinated if the job is to be done efficiently and in a minimum of time. Some of the steps in the makeready procedure are one-man operations, others are performed by two men working together. You will be assigned your part of the job to be done and will be

responsible for doing it properly and conscientiously.

Safety considerations as outlined in Section II have been built into the makeready procedure for your protection and the protection of your fellow crew members. Follow the precautions to the letter.

Accidents on a large web press like this can be very serious. Safety is everyone's responsibility. Do your part.

The makeready procedure for the V-25 web press has been divided into a sequence of operations. They are explained in detail in the following pages.

PREPARATION FOR THE MAKEREADY

The purpose is to call to your attention the need for organizing the change over from the last job to the new one. This requires planning. It is primarily the responsibility of the foreman of the pressroom and the head pressman.

What paper, ink and other materials will be needed on the job? Are they available? Have they been delivered to the pressroom?

Check the webs through the press and the folder to see that the impositions are correct and that you can get color on the pages where it is required. Check the new press plates to verify the page imposition. Determine where each press plate is to be mounted on the machine and mark it for identification.

If the last job that was run is very similar to the new job coming up, which is generally speaking the case with daily newspaper runs, it is possible that many of the settings on the press can be left as they are. A check list of the things to be done should be filled out so that each member of the press crew is aware of the items to be checked for this makeready. From this it is possible to make assignments. The list will also be useful in checking to see that every step or assignment in the makeready process has received the required attention.

A general clean-up of the press and surroundings should be done after completion of each job. Each man should assume the responsibility for keeping the press area of his regular duties clean. Between jobs and when down time occurs, the head pressman will designate the maintenance to be done. Even if he does not specifically assign maintenance items each time, there is always work to be done.

Any press problems which came up during the last run and require attention should be taken care of *now* while the press is down. Try to determine the cause of the problem and eliminate its reoccurance.

It is essential that maintenance records be kept in order to insure proper intervals of press and press component lubrication.

Operation 1. Mill Roll Stand Preparation

Before the press can be operated, the paper roll must be installed on the roll stand, the press must be webbed and the tension and side lay of the web must be properly

adjusted. NOTE: Electrical sidelay adjustment, which is optional, must be made with the press moving.

ROLL LOADING

Using the overhead chain hoist, unload and load the paper roll (Figure X6-1) as follows:

a. Using the roll chuck spanner wrench, loosen chuck on press drive side of shaft, i.e. the side opposite the brake. (Figure X6-2)

   WARNING: FOLLOW THIS PROCEDURE ONLY FOR ROLL BUTTS. FOR LARGER ROLLS REMOVE ROLL BEFORE LOOSENING CHUCK.

b. Loosen brake assembly and free brake shoes from brake drum.

c. Using the hoist and roll hook, secure hook to shaft and remove shaft and butt roll from stand.

d. Remove roll chuck (side opposite brake drum) and roll core from shaft.

FIGURE X6-1 – *MILL ROLL STAND*
[Omitted In Printing]

e. Insert shaft into new paper roll and reinstall chuck which was taken off the shaft. The paper roll should be positioned on the shaft so the web will feed from the top of the roll to the press.

f. Tighten the chuck and the bolts that clamp the chuck to the shaft.

g. Hoist the roll into position on the roll stand.

h. Clamp the brake around the brake drum and tighten the brake slightly.

Once the work side (brake side) roll chuck has been properly positioned on the shaft, it will be unnecessary to move it unless a different width web is used. Lubricate the roll shaft and bearings in accordance with Figure X-13-7.

FIGURE X6-2

[Omitted In Printing]

FIGURE X6-3

[Omitted In Printing]

a. Set the selector switch on the master control panel (Figure X-3-1) to SAFE.

   WARNING: DO NOT ATTEMPT TO JOB THE PRESS WHEN WEBBING, SERIOUS PERSONAL INJURY MAY RESULT.

b. Check the paper roll for damage, and remove any damaged paper. Make sure that all press lead in rollers are clean and free of dirt and foreign particles.

c. Release the brake tension and route the web over the mill roll stand idler, under the dancer roller, under the roll stand idler roller, and on toward the printing unit (fig. X-6-3). Check that the side of each roll is aligned with the sides of other rolls. If necessary, rotate the roll side lay adjustment handwheel (fig. X-6-1) to get proper alignment. Thread the web through the associated printing unit and on to the folder as directed in the next paragraph. After threading is completed, close the brake shoe assembly and moderately tighten the brake tension adjustment by hand.

WEBBING THE PRINTING UNITS AND FOLDER

After the rolls are mounted on the roll stand, web the printing units from the associated roll as shown in figure X6-3. Do not apply brake tension on the roll until webbing is completed. Proceed as follows:

a. *Single Color Operation.* To web printing units running single colors, refer to figure X6-3. Note that the web is threaded under the idler roller, between the smooth idler roller and the infeed roller (pressure released by operation of the infeed lever), over the knurled idler roller, and between the upper blanket cylinder and the lower blanket cylinder which are off impression. From the blanket rollers, it is threaded over the fixed compensator roller under the moveable compensator roller over the upper lead-in rollers and under the gathering roll. It then passes between the roller-top-of-former and the trolleys (See Figures X2-1 and X2-2) (pressure between rollers is released by operation of trolley lever), over the former, between the forming rollers, between the nip rollers and between the knife and jaw cylinders. After the web is threaded, engage all infeed levers and the trolley lever.

   WARNING: DO NOT HAND FEED PAPER TO THE CUTTING CYLINDER OR ANY NIPPING ROLLERS WITH THE PRESS RUNNING.

b. *Two or More Color Operation.* To web the printing units for printing of two or more colors, refer to figure X6-3. Note that the first printing unit is webbed in the same manner as for single color printing units until the web passes through the compensator rollers. From there it is threaded directly over the knurled lead roller and between the upper and lower blanket cylinders, through the compensator rollers, and either to the upper lead roller assembly or to the knurled lead roller of the next press unit to print a third color.

TENSION ADJUSTMENT

The normal operating position of the dancer roller is approximately vertical in line with the upper idler roller on the paper roll stand. Adjust tension as follows:

a. Start the press and run at a slow speed.

b. With the brake adjustment knob, (see Figure X6-1), adjust the drag on the brake until the dancer roller is in the normal operating position. (Clockwise rotation of the knob will increase the drag, counterclockwise rotation will decrease the drag on the brake).

c. After adjustment is made and the dancer is in the vertical position, proper tension is being applied to the web. It should be noted that as the size of the roll becomes smaller, less brake effort will be necessary.

d. During the run, as the roll becomes smaller, periodic adjustment of the brake will be necessary to maintain proper tension. Less drag will be needed so the brake adjustment knob should be turned in a counterclockwise direction. This will decrease the brake drag and bring the dancer roller back to its normal running position.

WEB SIDE LAY ADJUSTMENT

Side lay of the web (Figure X6-4) should be adjusted whenever a new paper roll is installed.

a. With the press running at a slow speed, the head pressman should observe the web as it passes over the former or visually inspect finished folded products.

b. After making his observation, he should signal back to the man at the roll stands as to which web to adjust and in which direction.

c. The man at the roll stand should then make his adjustment by turning the side lay adjustment handle (See Figure X6-1) in the appropriate direction.

d. The head pressman should then make a second observation and verify the new setting. When dimension $B_1=B_2$ the web is centered on the former.

FIGURE X6-4
[Omitted In Printing]

OPERATION II.
PRINTING UNIT PREPARATION

Preparation of the printing unit consists of: preparing the ink and water fountains, the ink and water rollers, installing the plates and blankets and possibly silencing one or more printing units. Instructions for these preparations are covered in this section. The sequence of operations for starting the press is given in Section IV.

SILENCING A PRINTING UNIT

The design of the main drive portion of the V-25 is such that any printing unit may be placed in a non-operating condition (Figure X7-1) without interfering with the operation of the other printing units. To silence the unit:

a. Stop the printing unit and the folder at the timing mark.

b. Raise the clutch lever located on the gear side of the press at the rear of the unit. The unit is now silenced.

FIGURE X7-1 – *V-25 PRINTING UNIT CLUTCH*
[Omitted In Printing]

FIGURE X7-2 – *V-25 UNIT TIMING INDICATOR*
[Omitted In Printing]

PRINTING UNIT TIMING PROCEDURE

Timing is necessary when a printing unit is engaged after silencing, when engaging the folder, and when engaging the quarter folder.

a. On a silenced printing unit, verify that the unit is on the timing mark. (Figure X7-2) (Timing mark located on blanket cylinder journal with pointer on the side frame.)

b. INCH press over until the folder timing points are aligned.

c. Set the mode control switch to SAFE.

d. Re-engage the printing unit by moving the clutch lever down. It may be necessary to rock the line shaft with the barring lever to align clutch gear teeth.

PROTECTING PRESS PLATES

If the press plates are to [sic] set for more than 15 minutes protect them with gum as follows:

> WARNING: MAKE CERTAIN FINGER GUARDS ARE IN PLACE BEFORE PROCEEDING WITH THIS OPERATION OTHERWISE SERIOUS PERSONAL INJURY MAY OCCUR.

1) Using a damp gum sponge, dip into gum and INCH press over, go over entire plate surface twice.

2) Smooth down the gum using a wipe rag leaving no streaks.

3) Wipe the bearers clean, then idle the press to let the gum dry.

NOTE: When washing-up and press is webbed, it is recommended the folder be disengaged.

a. INCH the press around slowly until the timing marks located on the blanket cylinder are in line with those on the frame.

b. Disengage the folder by pulling the main folder clutch of OFF.

WASHING INK ROLLERS WITH WASH-UP DEVICE

1. Put press on SAFE, Ink motor switch on OFF. All impression and form switches should be in the OFF position. Folder should be disengaged.
2. Install wash-up device in printing unit on brackets provided. Adjust wash-up blade to the vibrator roller so that it is even across the width of the vibrator.
3. Remove SAFE and run press at slow speed.
4. Apply wash-up solution to the ink rollers. The ink will be washed from the rollers and picked up on the wash-up blade.
5. Continue to run the press at a slow speed until the rollers are clean and the solvent is removed.
6. STOP the press, put the SAFE on and remove the wash-up device from the press.
7. Clean the wash-up trough.

WASHING INK ROLLERS WITHOUT
WASH-UP DEVICE
(Cleaning up on a web)

1. Put ink motor switch on OFF. Folder engaged.
2. Start press and run at a slow speed.
3. Put ink form rollers and impression ON. Apply solvent to the ink roller train. Continue to apply solvent until ink is removed from ink rollers. Continue to run

press until ink rollers are dry. Ink will pick up on web passing through press.

INK FOUNTAIN WASH-UP

a. Remove all ink from the ink fountain. (Figure X7-3) Back off ink keys INCH press until the ductor roller moves away from the fountain roller. Place press on SAFE.

b. Place bar in fountain base, loosen hinge bolts, and lower fountain to stops.

c. Clean fountain and seals thoroughly.

d. Lubricate fountain seals with film of grease before closing fountain.

NOTE: The fountain seals are set to the fountain with .001" to .002" clearance. Less clearance than .001" can overload the fountain motor while excess clearance can cause ink leakage.

CLEANING THE BLANKETS

a. Mode switch should be set to READY. All control switches should be OFF.

WARNING: MAKE CERTAIN FINGER GUARDS (FIGURE X7-4) ARE IN PLACE BEFORE PROCEEDING THIS OPERATION OTHERWISE SERIOUS PERSONAL INJURY MAY OCCUR.

FIGURE X7-4 – *V-25 UNIT FINGER GUARD (LOWER GUARD NOT SHOWN)*
[Omitted In Printing]

b. Cover the lower ink fountains.

c. Wash the upper blanket first using a clean rag and blanket wash.

d. INCH cylinder over being sure to clean the blanket thoroughly. Remove all ink, gum and lint.

e. Dry the blanket with a clean cloth and wipe all bearers clean.

f. Repeat same procedure on lower blanket cylinder.

INKING SUPPLY PREPARATION

Preparation of the ink system includes: filling the ink fountains, setting the ink fountain blades, controlling the ink fountain roller speed, and inking the rollers.

FILLING INK FOUNTAIN

Fill the ink fountain with the quantity of ink needed for the run. Be sure the ink is spread evenly across the width of the ink fountain. (If the fountain has ink in it from a previous run, be sure to stir its contents before starting up).

INKING THE ROLLERS

Preset fountain keys for .002" to .003" clearance. Fill the ink fountain.

1.) Flip the ink switch on the master control panel to "MAKEREADY".

2.) Run press at a slow speed with folder disengaged, impression OFF, and form rollers OFF.

3.) Turn each ink fountain motor switch to the ON position and set the speed control knob at a low setting.

4.) Allow motors and press to run until all the rollers have picked up a thin film of ink.

SETTING INK FOUNTAIN BLADES

The quantity of ink carried by the ink fountain roller is determined by the clearance between the fountain roller and the ink fountain blade. (Figure X7-3) This clearance is regulated by a series of thumbscrews on each ink fountain. The initial clearance between the ink fountain roller and the ink fountain blade is set at 0.002 inch nominal. However, each run will require adjustment of this clearance because of differences in plate image areas. If one side of the plate contains a larger image area than the other, it will require more ink. This requirement of more ink than can be met by increasing the space between the fountain blade and roller, by adjusting the thumbscrews.

FIGURE X7-3 – *INK FOUNTAIN ASSEMBLY*
[Omitted In Printing]

The fountain blade setting is adjusted by the following procedure when the press is running:

1. Visually examine a printed copy. Take note of areas where too much or too little ink appears.

2. Once these areas have been recognized, determine which unit they are being printed on and their position on the plate cylinder.

3. Then, go to the appropriate ink fountain (upper or lower) and make the necessary thumbscrew adjustments. Turning the thumbscrews to the right (clockwise) decreases the amount of ink, and turning them to the left (counterclockwise) increases the ink flow to the ink ductor roller.

CHANGING INK FOUNTAIN ROLLER SPEED

A general rule to follow when setting the ink fountain roller speed is: "The heavier the concentration of ink required, the faster the fountain roll speed should be". The ink fountain roller turns in proportion to the speed of the press. This proportionate increase in speed is adjusted by the speed control knob located on the unit control panel. Turning the speed control knob clockwise increases the speed of the fountain roller. Increasing the fountain roll speed increases the amount of ink delivered to the plate all across the unit.

DAMPENING SUPPLY PREPARATION

Preparation of the dampening system includes: preparing the dampener fountain solution, and moistening the dampener rollers.

The operator must obtain the correct ink-water balance to provide the desired image. The proper amount of moisture is the least amount possible to keep the non-image areas clean. Running too much moisture will cause undue emulsification of the ink which results in a gray washed-out copy.

a. Fill the water tank, located on the gear side of the unit, with solution. Prepare the solution following the directions as given by the manufacturer of the chemicals which are added to the water. (Each water tank normally provides water to (2) printing units. With one unit not in operation, the flow of water to the pan may be shut off. A valve on the line which supplies water to the pan is provided for this purpose).

b. Turn each water fountain motor switch to the ON position and set the speed control knob at a low setting.

c. Start the press. Run at slow speed with impression and form rollers in the OFF position.

d. Allow the press and dampener rollers to run until they have picked up enough moisture so they feel moist against the back of the hand.

NOTE: The fountain solution should be drained from the water trays whenever the press is to remain idle for more than a few hours. A solution which will not harm the dampener fountain roller under normal conditions could possibly cause some pitting if the rollers were allowed to stand in the solution for an extended period of time.

PREPARING NEW PRESS PLATES FOR MOUNTING

PLATE HANDLING CAUTIONS

The edges of the plate can be sharp. Be careful. If the edges of the plate are burred, remove the burrs with a file to prevent damage to form rollers, dampeners, and blankets. Careless handling of press plates can cause kinks and ruin the plate. Keep the plate dry. Don't remove the protective sheet of paper, if supplied.

MAKING THE PLATE LOCKING BENDS

Plates are received from the plate room after being exposed, developed and gummed. The plate bending fixture (Figure X7-5) is used to accurately make the leading and trailing edge bends.

1. Make sure the plate bender work surface is clean and dry.

2. Using the plate locking handle, raise clamping bar.

3. Raise the stop bar until it locks in the up position.

4. Take the developed plate placing it etched side down leading edge (bottom of page) first. Place it into the bender under the clamping bar until it locates against the stop bar.

5. Lock plate into position using the plate locking handle and lower the stop bar.

6. Swing break bar around thus putting first bend on plate.

FIGURE X7-5
[Omitted In Printing]

7. Release plate and repeat above procedure for opposite edge of plate (top of page). Swing the break bar up enough to bend the plate so the bend angle is approximately 150°.

8. Raise stop bar and release plate.

9. Slide plate forward until second bend locates against the stop bar. Lock plate into position and lower stop bar.

10. Swing break bar around bending plate approximately at a 32° angle.

11. Unlock and carefully remove plate from bender. (Figure X7-6) Plate is now ready for installation on printing unit. Handle plates carefully to prevent damage to the bends.

WARNING: MAKE CERTAIN FINGER GUARDS ARE IN PLACE BEFORE PROCEEDING WITH THIS OPERATION OTHERWISE SERIOUS PERSONAL INJURY MAY OCCUR.

FIGURE X7-6

[Omitted In Printing]

REMOVING THE PRESS PLATES

1. If plates are to be reused be sure they have been properly gummed and the blanket washed and dried.
2. Stop units and folder at the timing marks. Disengage folder.
3. Set mode switch to READY. INCH press until gap of plate cylinder is to your front. Put press on SAFE.
4. Insert 1/4" allen "T" wrench in set screw on reel clamp and loosen both work and gear side. (Figure X7-7)
5. Take a 1 1/4" wrench and release plate by rotating plate reel rod.
6. When trailing edge of plate is free, hold it up nearly vertical while another crew member bars, by hand, the unit over in the reverse direction. (Figure X7-8)
7. Removing the lower plate is done the same way except the plate trailing edge is pulled down rather than up.

CLEANING THE PLATE CYLINDERS

The plate cylinder must be absolutely clean. This includes both the metal cylinder surface under the plate as well as the bearers and gutters. These cylinders should be cleaned every time a plate is removed from the press. It is part of every makeready procedure.

1. Wash the plate cylinder using press-wash to remove all foreign material. DO NOT USE ABRASIVES!

2. Be sure to clean and carefully wipe off the bearers and gutters of both the plate and blanket cylinders.

3. Wash the blanket again to remove any dried ink or foreign material that may have dropped on them.

FIGURE X7-7
[Omitted In Printing]

FIGURE X7-8
[Omitted In Printing]

MOUNTING THE PRESS PLATES

1. Place mode selector switch to READY. INCH press over until the plate cylinder gap is directly in front of you. (Figure X7-9)

2. Be sure finger guards are in place between the plate and blanket cylinders.

3. Put a 1¼" wrench on the reel rod extension and turn until the reel rod slot is centered in the plate cylinder gap. Put cylinder impression ON.

4. INCH the press until the plate cylinder gap is about 2" from the blanket cylinder. Put SAFE on.

5. Insert the leading edge of the plate into the cylinder gap. (Figure X7-10, View 1) Hook bent leading edge over the leading edge lip of the plate cylinder, (on the top plate cylinder the lip is on top and the plate is pressed up to seat it firmly. On the bottom plate cylinder the press plate is pressed down to seat it over the lip). (See Figure X7-9) Be sure to center plate.

6. Continue to hold and slightly pull the tail end of the plate. INCH the press slowly for one complete revolution. When the plate cylinder gap is again exposed

directly in front of you, stop press and put SAFE back on. (Figure X7-11)

7. Insert the bent tail end of the plate into the reel rod slot. (Figure X7-11, View 2) Two men work together press and hold the tail end plate bend firmly into the reel rod slot. The man on the operator side of the press applies a 1¼" wrench to the reel rod extension and slightly tightens the plate.
8. Check to see that the ends of the plate align and seat properly in the groove.
9. Once satisfied, tighten the reel rod. (Figure X7-11, View 3)
10. Using a ¼" allen "T" wrench, tighten the set screws on the reel rod clamp, both work and gear sides.
11. Revolve the plate cylinders several revolutions with the impression ON. Recheck and tighten the plate further if necessary.

FIGURE X7-9
[Omitted In Printing]

FIGURE X7-10
[Omitted In Printing]

FIGURE X7-11 – *INSTALLING THE PLATE*
[Omitted In Printing]

BLANKET REMOVAL AND INSTALLATION

REMOVING THE BLANKET

1. Remove the web from unit (Figure X7-9) and rotate the blanket cylinder gap until it is facing you. Put press on SAFE. Cylinder impression should be OFF.
2. Remove the finger guard between the plate and blanket cylinders.

3. Disengage ratchet by applying pressure on ratchet pawl. (Figure X7-12) Take a 1" wrench and rotate the reel rod to a position so as to release the trailing edge of the blanket. Pull the trailing edge out of the slot.

FIGURE X7-12
[Omitted In Printing]

4. Upon freeing the trailing edge, work the leading edge of the blanket free.

5. Take the press off SAFE. Holding the leading edge, INCH the blanket cylinder over one revolution. Remove the old blanket.

6. Clean the cylinder surface with press wash. Check carefully to see that there are no particles of dirt or foreign material sticking to the cylinder. Wipe the cylinder dry and apply a thin film of oil to protect the surface.

FIGURE X7-13
[Omitted In Printing]

FIGURE X7-14
[Omitted In Printing]

MOUNTING THE BLANKET AND PACKING

1. Make sure that the blanket cylinder is clean and dry.

2. Select packing sheet(s) of the proper thickness. The size of packing is 36" wide by 22½" long. It may be cut on the cylinder if necessary. (Figure X7-13)

3. Apply a bead of spray on glue to the leading edge of the cylinder and afix the packing edge. (Figure X7-14)

4. Take the press off SAFE. INCH the press over for one revolution.

5. Return press to SAFE. Cut the packing even with the gap on the trailing edge. Do not glue the trailing edge.

6. Take the new blanket and insert it into the leading edge of the gap. (Figure X7-15, View 1) Hold the blanket into position by catching the metal edge with the flat on the reel rod. Check to see that the packing sheet is centered and parallel with the side edges of the blanket.

7. Take the press off SAFE. INCH the cylinder over one revolution holding the trailing edge. Return to SAFE.

8. Apply grease to the blankets trailing edge prior to tightening. The grease reduces friction between the rubber surface of the blanket and cylinder. The blanket will also conform better to the cylinder.

Insert the trailing edge bar into the slot on the reel rod. (Figure X7-15, View 2) Check to see that the bar is square in the reel rod also check to see that the leading edge is trapped in its proper position.

Begin to take up on the reel rod to draw the blanket tight around the cylinder. (Figure X7-15, View 3)

Replace the finger guard between the plate and blanket cylinders.

To iron the blankets out and properly seat them, the press is run with impression ON for a short time.

Stop the press. Rotate the blanket cylinder so the gap is facing you. Put the press on SAFE. Check the blanket and retighten the reel rod. Also check the blanket for uniform tension. When thumped with the hand the blanket should have the same sound across the width of the blanket.

If a gage is available, check the blanket for the correct printing height. This should be about 0.003 inch above bearers.

REGISTERING PRINTED IMPRESSIONS

The position of the printing on each side of the web must be in relation to one another. This is back-up register. The margins, head, foot, and side must be uniform on both sides of the paper throughout the signature.

SIDE REGISTER ADJUSTMENT

1.Check that the side margins are even (Figure X7-16) and opposite each other on both sides of the web. If the impression of the upper printing cylinders (plates) are off-center, adjust the upper plate cylinder (Figure X7-17) using the special

FIGURE X7-15
[Omitted In Printing]

wrench provided to shift the position of the plate cylinder and move the printed impression into proper register. Clockwise rotation will shift the impression toward the gear side of the printing unit, counterclockwise toward the workside.

2. If the lower plates are off-center, adjust the lower plate cylinder as described above.

3. Both upper and lower impressions should now be in lateral register.

FIGURE X7-16
[Omitted In Printing]

CIRCUMFERENTIAL REGISTER ADJUSTMENT

If the upper impression does not coincide with the lower impression (Figure X7-18) the impressions can be aligned by rotating the circumferential register caps (Figure X7-17) with the special wrench provided. Clockwise rotation of the upper register cap will advance the upper impression while clockwise rotation of the lower cap retards the lower impression.

COMPENSATOR ADJUSTMENT

Compensators either lengthen or shorten the distance of web travel (Figure X7-19) and thus control the lengthwise location of the webs for accurate association and uniform cut-off register.

1. Check the register by taking a finished product and visually examine the cut-off. (Cut-off register is related to web-to-web register. Unless the webs are properly associated one over the other, the cut-off will not produce uniform head and foot margins on each page).

2. Determine which web is not in register and the unit it is being printed on.

FIGURE X7-17 – *V-25 REGISTER CONTROLS*
[Omitted In Printing]

3. Make the proper adjustment at that unit's compensator. (Figure X7-20)

   A. Turning the adjustment knob clockwise will lengthen the web path.

   B. Turning the adjustment knob counterclockwise will shorten the web path.

4. Recheck to verify new compensator setting.

FIGURE X7-18
[Omitted In Printing]

FIGURE X7-1
[Omitted In Printing]

FIGURE X7-20 – *V-25 UNIT COMPENSATOR*
[Omitted In Printing]

NOTE: Cut-off register during the entire press run is maintained by checking and adjusting the compensators.

OPERATION III.

FOLDER PREPARATION MAKEREADY ADJUSTMENT

SILENCING THE FOLDER

A clutch is provided on the folder to disengage it from the press. The clutch makes it possible to operate the printing units independent of the folder during the press makeready, inking-up and wash-up. The folder clutch is located on the workside of the folder gear case (Figure X8-1). To silence the folder:

a. INCH the press over to the point when the timing mark on the jaw cylinder and the pointer align.

b. Put press on SAFE.

c. Pull the folder clutch handle out and rotate to bottom detent. Folder is now silenced.

FOLDER TIMING PROCEDURE

Timing is necessary when the folder clutch is engaged after silencing.

a. Check to see that the timing points of the folder are aligned. (If the points are not aligned, engage the folder clutch and INCH the press over until the folder timing points are aligned. Disengage the folder, clutch. If the folder was disengaged on the marks, this step is not necessary).

b. INCH the press over until the timing points on the press are aligned. Put press on SAFE.

c. Engage the folder clutch. The press is now timed for standard operation.

FIGURE X8-1 – *FOLDER CLUTCHES*
[Omitted In Printing]

HOLD DOWN ROLLER ADJUSTMENT

The hold down roller setting (Figure X8-3) is determined by the number of webs to be run. If the number of webs is increased, the clearance between the hold down rollers and the jaw cylinder must be increased. The proper setting exists when a drag is felt with the signature between the jaw cylinder and the hold down rollers.

a. Inch the folder over until a folded product is between the jaw cylinder and the hold down rollers.

b. Return to SAFE. Pulling the paper end, test for the amount of drag which exists by pulling on the paper.

c. If an adjustment is required, there are two adjustment knobs located on the inside of the folder frame. Loosen the locking knobs. Turn the adjustment knobs

until the proper drag has been attained. Retighten the locking knobs.

NOTE: It is important that all hold down rollers have equal pressure on them.

FIGURE X8-4 – *NIP ROLLER ADJUSTMENT*
[Omitted In Printing]

FIGURE X8-3 – *HOLD DOWN ROLLER ADJUSTMENT*
[Omitted In Printing]

NIP ROLLER ADJUSTMENT

Just below the forming rollers are the nip rollers (Figure X8-4). Two rollers with knurled surfaces press against each other. Both these rollers are driven. The setting of these nip rollers is critical since they keep the correct tension on the web as it enters the cutting cylinder. Varying tension seriously affects both the accuracy of the second fold (half fold) and the accuracy and uniformity of the cut-off. The proper setting exists when there is a slight drag on the paper between the rollers (distinct knurl marks on the web.)

a. Put press on SAFE.

b. Test to see if drag exists between the nip rollers by trying to pull the web through.

c. If an adjustment is required, there are two nip roller adjustment knobs located on the inside of the roller frame. Loosen the locking knobs. Turn the adjustment knobs until the drag is almost eliminated between the rollers. Retighten the locking knobs.

d. The nip rollers and spacers are clamped into position on the shaft and can be moved laterally for width of the paper being run.

SETTING STRIPPER FINGERS

Before each run, the stripper fingers must be checked and set (Figure X8-5) as necessary to provide the proper routing of the signature. When running a standard half fold, the quarter fold stripper fingers should be away from the jaw cylinder. When running quarter fold the stripper fingers should be positioned to strip off the signature and guide the signature through the quarter folder. The quarter fold stripper fingers are engaged and disengaged through a lever handle located on the inside of the folder frame.

FIGURE X8-6 – *TROLLEYS AND SLITTER*
[Omitted In Printing]

FIGURE X8-5 – *QUARTER FOLDER STRIPPER*
[Omitted In Printing]

SETTING AND ADJUSTING THE TROLLEYS AND SLITTER KNIFE

The roll over former consists of a driven roller of the proper diameter to maintain a pull on the webs. Two propeller rollers or trolleys press against the driven roller for control. There is a spring and a turn screw adjustment to set the desired tension on the trolleys (Figure X8-6). Also mounted on the propeller shaft is a slitter wheel. The wheel is used when running tabloid only. When the wheel is not used it must be disengaged by decreasing the tension on the spring through the turn screw adjustment. The trolleys may also be thrown ON-OFF simultaneously through a lever handle located on the outside of the upper folder frame.

QUARTER FOLDER PREPARATION

QUARTER FOLDER TIMING PROCEDURE

Timing (Figure X8-7) is necessary when the quarter folder drive gear is engaged after silencing.

1. INCH the press over to align the timing marks on the folder and printing units.
2. Put press on SAFE.
3. Remove half fold cam from face of folder gear case (Figure X8-8).
4. Rotate the quarter folder tucker blade assembly manually until the pointer is aligned with the timing mark.
5. Engage the quarter folder drive gear by moving clutch handle to L/H detent. (See Figure X8-1, Page 35.)

FIGURE X8-7 – *QUARTER FOLDER TIMING*
[Omitted In Printing]

FIGURE X8-8 – *HALF-FOLD CAM*
[Omitted In Printing]

SILENCING THE QUARTER FOLDER

1. Put press on SAFE.
2. Re-install half fold cam.
3. Disengage the quarter folder drive gear by moving clutch handle to R/H detent.
4. Disengage the quarter folder stripper fingers by moving them away from the jaw cylinder.

SECTION IV

PRESS OPERATION

DAILY CHECK LIST

Before the makeready operations and starting the press for a production run, a check should be made of the various press components. This check will insure the operational condition of the press.

The daily check list then should consist of:

MILL ROLL STAND

1. Check brake shoes for wear.
2. Check spring tension.
3. Inspect paper rolls for damage.

PRESS UNIT

1. Check that no foreign objects are between the rollers.
2. Check rubber distributor and form rollers for cracks or signs of excessive wear.
3. Check water transfer roller and water form roller for cleanliness. Change covers if dirty.
4. Check condition and cleanliness of blankets.
5. Check water pans and tanks for cleanliness and foreign objects.
6. Check ink fountain for condition.
7. Check that all guards and shields are in place.

FOLDER

1. Check knife blades, cutting rubber, pins and tucker blades for condition.
2. Check stripper fingers.
3. Check nip rollers for condition (clean if ink covered).
4. Check folder for freedom from foreign objects.
5. Check that all guards and shields are in place.

OPERATING INSTRUCTIONS

It is recognized there are innumerable ways of bringing this press into a continuous printing mode. The following instructions will familiarize the operator with the relationship of electrical and mechanical press functions needed to safely operate this press.

This section describes in some detail the controls used to bring an independent printing unit into continuous run from the Unit Control Panel (Figure X10-1) and Unit Drive Station Panel (Figure X10-2). After a unit is capable of running independently, the remote control features of running from the Master Folder Control Panel (Figure X10-3) is described.

NOTE: Prior to operating the press, review the safety precautions and electrical control sections outlined in this manual.

Safety features have been incorporated into the control system to protect the operator and prevent the press from being started at high speeds. This press can be stopped by depressing the STOP push-button at any of the locations on the V-25.

PRESS OPERATION FROM THE PRINTING UNIT – This is the time to make sure each printing unit is working properly. It will be necessary to do certain functions from other than the printing unit.

1. Turn the power ON at the wall disconnect and observe the red power indicator light on the drive control cabinet is lit. This supplies power to the press drive control.

2. Load the roll stand with paper (Section III, Operation 1).

3. Fill the ink fountains (Section III, Operation 2).

4. Check the water supply (Section III, Operation 2).

5. Install the plates (Section III, Operation 2).

6. Disengage the folder clutch (Section III, Operation 3).

7. Turn the POWER switch-ON at the master folder control panel and observe the power indicator light. If illuminated, power is being received from the drive control cabinet, allowing electrical operation of the press.

8. Turn the INK switch to MAKEREADY at the Master Folder Control Panel.

9. Depress READY push-buttons on the Unit Drive Station Panel and Master Folder Control Panel.

FIGURE X10-2 – *V-25 UNIT DRIVE STATION PANEL*
[Omitted In Printing]

FIGURE X10-1 – *V-25 PRINTING UNIT CONTROL PANEL*
[Omitted In Printing]

FIGURE X10-3 – *V-25 FOLDER MASTER CONTROL PANEL*
[Omitted In Printing]

NOTE: From this point on, the printing unit(s) can be run independent of the Master Folder Control Panel at an inching speed.

WARNING

MAKE SURE ALL GUARDS ARE IN PLACE AND THAT ALL PERSONNEL ARE CLEAR OF THE PRESS BEFORE OPERATING.

10. Depress and hold the INCH push-button in position to begin press rotation at inch speed.

NOTE: The INCH button only moves the press as long as it is the only one depressed. Once it is no longer depressed, the press stops. The warning and momentary press movement allows time to safely clear and stop the press if required.

11. While the INCH button is depressed and the unit is moving, simultaneously depress the SLOWER push-button bringing the unit into continuous run.

NOTE: Ink and water rollers should not be run dry on the press for extended periods of time.

12. Depress WATER FOUNTAIN switches (upper and lower) – ON at the Unit Control Panel.

13. Depress WATER FORM switches (upper and lower) – ON at the Unit Control Panel.

14. Depress INK FOUNTAIN switches (upper and lower) ON at the Unit Control Panel.

15. The Speed Control Knobs for INK and WATER (upper and lower) should be placed on a low setting.

16. Depress INK FORM switches (upper and lower) – ON at the Unit Control Panel.

17. Depress the FASTER push-button on the MASTER FOLDER CONTROL PANEL to bring the unit(s) speed up.

    This allows moisture in the dampeners to dissolve gum on the plates and also brings a thin film of ink up through the rollers to the plate.

18. Depress the INK and WATER FORM and FOUNTAIN (upper and lower), and IMPRESSION rocker switches to AUTO on the Unit Control Panel(s). Place the IMPRESSION switch on the Unit Drive Station to ON.

NOTE: This disengages the printing functions for transfer to the remote automatic operation from the Master Folder Control Panel.

19. Depress the SLOWER push-button and reduce the unit(s) speed to inching; then depress the STOP push-button. This can be done at the unit(s) or folder.

PRESS OPERATION FROM THE MASTER FOLDER CONTROL

The following procedures generally involve press operation from the Master Folder Control Panel and are a continuation of the press operation from the printing unit described previously.

1. Depress the SAFE push-button on the Master Folder Control Panel.

2. Engage the folder clutch (Section III, Operation 3) making sure the folder and unit(s) are on their timing mark. (Also applies to quarter folder clutch if needed.)

3. Depress the INK and WATER FORM and FOUNTAIN, and the IMPRESSION rocker switch to AUTO on the MASTER FOLDER CONTROL PANEL.

4. Turn the INK switch to RUN on the Master Folder Control Panel. This allows the ink fountain motors to track their speed in direct proportion to press speed.

5. Depress the READY push-button on the Master Folder Control Panel, taking the press off SAFE.

6. Depress the INCH push-button and hold it in position to begin press rotation at inching speed.

7. Depress the SEQUENCER switch to the RUN position. With all printing functions for INK, WATER and IMPRESSION in the AUTO position, the selected units will remotely and sequentially start these functions.

8. While the INCH button is depressed and the press is rotating, simultaneously depress the SLOWER push-button bringing the press into continuous inching speed.

NOTE: At this time, the press will produce printed product through the folder.

9. Depress the FASTER push-button until the desired press speed is maintained.

10. Check the web side lay at the former and make the necessary adjustments at the roll stands.

11. Check a printed copy and make necessary adjustments by increasing or lowering the ink and water Speed Control Knobs.

NOTE: If running color, check registration of color and adjust the compensator and/or register if needed.

12. Check the brake adjustment. At running speed, the dancer roll should be approximately under the smooth idler roller.

NOTE: The press should be monitored during the run and the quality of the printed material should be checked frequently. The ink fountain should be kept at least half full during the run.

STOPS DURING THE RUN
(Short Stops)

If the press is to be stopped momentarily during the run, complete shut off is not required. To stop the press during a run, proceed as follows:

1. Depress the SLOWER push-button on the Master Folder Control Panel until the press reaches inching speed.

2. Depress the STOP push-button on the Master Folder Control Panel and when the press has stopped, depress the SAFE push-button.

   At the time the STOP push-button is depressed, the printing functions are inactive.

STARTING THE PRESS AFTER SHORT STOPS

If the press was momentarily stopped during a run, it can be restarted as follows:

1. Depress the READY push-button, bringing the press off SAFE.

2. Depress the INCH push-button; holding it in position to bring the press into inching speed.

3. Depress the SEQUENCER switch to RUN while all printing functions are in the AUTO position. The selected units will remotely and sequentially start the printing functions.

4. While the press is inching, simultaneously depress the SLOWER push-button bringing the press into continuous rotation at inching speed.

5. Depress the FASTER push-button bringing the press to the desired continuous speed.

SHUTTING DOWN THE PRESS
(End of Run)

To shut down the press at the end of a run, proceed as follows:

1. Depress the SLOWER push-button on the Master Folder Control Panel reducing press speed *near* the inching speed.

2. Depress the INK FOUNTAIN rocker switch – OFF and allow the press to run. This will remove excess ink from the inking system.

3. Depress the INK FORMS rocker switch – OFF.

4. Depress the WATER FOUNTAIN rocker switch – OFF.

5. Depress the WATER FORM rocker switch – OFF.

6. Depress the SLOWER push-button bringing the press *to* inching speed.

7. Depress the STOP push-button. This will take the IMPRESSION off automatically.

8. Clean the press. Remove plates and wash blankets (Section III, Operation 2).

NOTE: Plates left on the cylinder for long periods (over a weekend) may cause rust accumulations in the lock-up reel area.

9. Turn the POWER switch – OFF at the Master Folder Control Panel and observe that the power indicator light extinguishes.

10. Depress the SAFE push-button at the Master Folder Control Panel.

11. Turn off the power at the wall disconnect and observe that the red power light extinguishes.

SECTION V

ADJUSTMENTS and PART REPLACEMENTS

The adjustments described in this section are adjustments that are not made during the course of normal operating procedure, but are required to correct certain operating troubles or to meet certain operating conditions. Also, adjustments are required when consumable parts are replaced periodically.

GENERAL

Your V-25 press unit is provided with adjustments that allow some variation in roller size due to regrind and normal manufacturing tolerances. In order to keep the need for adjustments to a minimum replace all rollers in the location from which they were removed.

SETTING THE INK DISTRIBUTOR AND INK FORM ROLLERS

1. The adjustable ink distributor rollers No. 2, No. 4, No. 6, No. 11, No. 13, and No. 15 (Figure X11-1) are set to the stationary distributor No. 1, No. 3, No. 10, No. 14 and vibrators No. 5, No. 7, No. 12, No. 16 using pull strips.

   Adjustments are made to each adjustable ink distributor roller using the following procedure (Figure X11-2):

   a. Place pull strips between the adjustable distributor and stationary rollers. A strip should be placed at each end of the rollers.

   b. Pull on each set of strips, simultaneously testing for sufficient and equal drag between the rollers.

   c. If adjustment is required, loosen locknuts "D" and "E" and make necessary adjustments with the thumb and adjusting screw.

   d. Retighten locknuts "D" and "E" after adjustment is made and recheck drag.

   e. If an uneven drag exist between the adjustable roller and the two stationary rollers, then additional adjustment is needed to make the drag equal between the two sets of pull strips.

   f. Determine in which direction adjustment is required to equalize the drag between the two sets of strips.

   g. Tap the roller brackets in the desired direction using a soft mallet. Both brackets on the roller should be adjusted to keep the adjustable roller parallel with the stationary rollers.

   h. After adjustment is made, recheck drag.

FIGURE X11-1 – *INK AND WATER DISTRIBUTION*
[Omitted In Printing]

2. The ink form rollers No. 8, No. 9, No. 17 and No. 18 (Figure X11-1) are set to the vibrators and plate cylinders using pull strips.

   The adjustments are made to each ink form roller using the following procedure.

   A. Ink form roller No. 17 upper and 8 lower to ink vibrator roller (Figure X11-3 upper; Figure X11-4 lower).

FIGURE X11-2
[Omitted In Printing]

FIGURE X11-3
[Omitted In Printing]

FIGURE X11-4
[Omitted In Printing]

   1. Insert test strips between form roller No. 8 or 17 and the ink vibrator roller.

   2. Pull both strips simultaneously testing for sufficient and equal drag between the rollers.

   3. If adjustment is required, back off locknuts "F" and turn vibrator pressure adjustment screws on both ends to get the desired drag.

   4. Retighten locknuts "F" after adjustment is made and recheck drag.

   B. Ink form roller No. 8 lower and 17 upper to the upper plate cylinder (Figure X11-3 upper; Figure X11-4 lower). Plate must be installed on cylinder.

1. Insert test strips between form roller No. 8 or 17 and the upper plate cylinders.

2. Throw the upper ink form rollers ON.

3. Pull both strips simultaneously testing for sufficient and equal drag between the roller and cylinder.

4. If adjustment is required, back off locknuts "G" and turn plate pressure adjustment screw roller No. 8 or 17 on both ends to get the desired drag.

5. Retighten locknuts "G" after adjustment is made and recheck drag.

C. Ink form roller No. 9 lower and 18 upper to ink vibrator roller (Figure X11-3 upper; Figure X11-4 lower).

1. Insert test strips between form roller No. 9 or 18 and the ink vibrator roller.

2. Pull both strips simultaneously testing for sufficient and equal drag between the rollers.

3. If adjustment is required, back off locknuts "H" and turn vibrator pressure adjustment screws on both ends to get the desired drag.

4. Retighten locknuts "H" after adjustment is made and recheck drag.

D. Ink form roller No. 9 lower and 18 upper to the upper plate cylinder (Figure X11-3 upper; Figure X11-4 lower). Plate must be installed on cylinder.

1. Insert test strips between form roller No. 9 or 18 and the upper plate cylinders.

2. Place the upper ink form rollers ON.

3. Pull both strips simultaneously testing for sufficient and equal drag between the roller and cylinder.

4. If adjustment is required, back off locknuts "I" and turn plate press adjustment screw roller No. 11 on both ends to get the desired drag.

5. Retighten locknuts "I" after adjustment is made and recheck drag.

FIGURE X11-5 – *INK FORM ROLLER STRIPE TEST*
[Omitted In Printing]

SETTING THE DAMPENER FORM ROLLERS

A. Set the form roller to the vibrator roller (Figure X11-6).

1. Insert test strips between the water form and vibrator rollers.

2. Pull strips simultaneously testing for sufficient and equal drag between the rollers.

FIGURE X11-6
[Omitted In Printing]

3. If adjustment is required, back off locknuts "C" and turn vibrator pressure adjustment screw on both ends to get the desired drag.

4. Retighten locknuts "C" after adjustment is made and recheck drag.

B. Set the water form roller to the plate cylinder (Figure X11-6). Plate must be installed on cylinder.

1. Insert test strips between the form roller and plate cylinder.

2. Put the water form roller on.

3. Pull both strips simultaneously testing for sufficient and equal drag between the roller and plate cylinder.

4. If adjustment is required, back off locknuts "D" and turn plate pressure adjustment screw on both ends to get the desired drag.

5. Retighten locknuts "D" after adjustment is made and recheck drag.

QUICK CHECK FOR CORRECT SETTING OF THE INK FORM ROLLERS

After the initial setting of the form rollers to the plate cylinder, they need only to be checked (Figure X11-5) at the time of the makeready.

A visual check can be made by bringing the inked-up form rollers in contact with the plate while the unit is stopped with impression ON and immediately taking them off again. Once the form rollers have been thrown ON and OFF, then INCH the unit over until both ink stripes are visible. A correct ink stripe will be $^{5}/_{16}$" wide and even across the plate. A press plate must be mounted on the plate cylinder and impression must be ON in order to set the ink form rollers properly.

SETTING THE DAMPENER FORM ROLLERS

The upper and lower dampener form rollers are set to the vibrator and plate cylinder using pull strips (Figure X11-6).

SETTING THE INK DUCTOR

The ductor roll is adjusted using pull strips. The following procedure is used (Figure X11-7):

1. INCH press until actuator rod "E" is at maximum travel point with ductor roller against distributor roller.
2. Place pull strips between the ductor roller and the distributor roller. A strip should be used at each end to insure even pressure.
3. Pull on the set of strips, simultaneously testing for sufficient and equal drag between the rollers.
4. If adjustment is required, loosen locknut "A" and adjust screw "B" on each side of the press.
5. Retighten the locknut and recheck the drag.
6. INCH press until actuator rod "E" is at maximum travel with ductor roller against the fountain roller.
7. Place pull strips between ductor roller and fountain roll.
8. If adjustment is required, loosen locknut "C" and adjust with screw "D".

FIGURE X11-7

[Omitted In Printing]

9. Retighten locknut and recheck drag.

After the roller pressure had been set check the ductor dwell. The ink ductor should make 4 to 4½ revolutions while in contact with the distributor roller. Spring "F" is adjusted with locknuts "G" to get the desired dwell. Tighten against the spring for more dwell and loosen to reduce dwell. Spring "H" is adjusted with locknuts "J". Spring "H" is set with a minimum of pressure. If spring

"H" is adjusted it may be necessary to readjust spring "F" to maintain proper dwell. The minimum spring pressures that will give the desired dwell should always be used to prevent excessive wear and strain on the ductor components.

SETTING THE DAMPENER DUCTOR

The dampener ductor (Figure X11-8) is adjusted using the same methods described for the ink ductor. The only difference is the dwell which is adjusted for 7 to 8 revolutions of the ductor while against the dampener vibrator roller. The ductor roller covering must be installed and rolled down before adjustments are made.

V-25 INFEED ROLLER WEB TENSION ADJUSTMENT

The nip pressure between the infeed roller (Figure X11-9) and the infeed idler roller is adjustable to control infeed tension of the web to the blanket cylinders.

Nip pressure is set at the factory. The steel roller bears approximately .030 into the infeed roller when the infeed Cam Lever is in the "On" position shown. Changes to web tension may be made as follows:

Increase of web tension between infeed and blanket cylinders:

To increase web tension, the nip pressure between the steel idler and infeed roller must be reduced. To accomplish this, stop the press and made the following adjustments:

Loosen adjust screw "A" 1/4 turn or less and tighten adjust screw "B" the same amount, – then tighten stop screw "C". Care must be taken in this adjustment not to lose the web because of the reduction in nip pressure.

Decrease of web tension between infeed and blanket cylinders:

To decrease web tension, the nip pressure between the steel idler and infeed must be increased. To accomplish, stop the press and make the following adjustments:

Loosen stop screw "C" several turns. Loosen adjust screw "B" 1/4 turn or less, tighten adjust screw "A" the same amount and retighten stop screw

FIGURE X11-8
[Omitted In Printing]

"C". Care must be taken in this adjustment not to overfeed the web creating slack between the infeed and blanket cylinders.

FIGURE X11-9
[Omitted In Printing]

KNIFE BLADE REPLACEMENT

To replace the cutting knife blade (Figure X12-1), proceed as follows:

1. Rotate the cutting cylinder until the knife blade assembly is accessible.

2. Remove five retaining bolts "A" from the cheekwood retainer. Remove retainer from cylinder along with four cheekwoods.

3. Remove the one blade retaining bolt "B" from the cylinder.
4. Loosen four 1/2" set screws (not shown) to free the knife blade.
5. Remove worn knife blade from cylinder and thoroughly clean all paper dust and foreign matter from cavity.
6. Replace worn blade with new blade.
7. Replace blade retaining bolt "B". Hand tighten only.
8. Check to assure that all cheekwood springs are in position and properly seated.
9. Replace cheekwoods and cheekwood retainer. Tighten retaining bolts "A" in place.
10. Using the three blade adjustment screws "C", back off on the locknuts and adjust the blade so that the cutting edge is flush with the top of the cheekwood. Once the blade is adjusted, retighten locknuts.
11. Tighten bolt "B" and the four 1/2" setscrews to clamp the blade into position.

IMPALING PIN REPLACEMENT

Check each made-ready for bent or broken pins (Figure X12-2). Replace any that are damaged. Care should be taken when replacing pins not to disturb the pin holder setting for they are pre-set at the factory.

FIGURE X12-1
[Omitted In Printing]

To replace the pins, proceed as follows:

1. Rotate the cutting cylinder until the pin holder is accessible.

2. Using the pin wrench provided, remove the old pin.
3. Insert new pin into holder. Care should be taken not to over tighten pin at reinstallation.

FIGURE X12-2
[Omitted In Printing]

TUCKER BLADE REPLACEMENT

The tucking blade should be checked before each run. All damaged blades should be replaced (Figure X12-3) at once. Cuts in the folded edge of the signature will indicate a damaged blade.

To replace the tucker blade, proceed as follows:

1. Rotate the cutting cylinder until the tucker blade is accessible.
2. Loosen the five blade retaining bolts. Blade should break free.
3. Remove old blade from cylinder.
4. Install new blade into cylinder. Hand tighten bolts. Check to see new blade is free of burrs and sharp corners.
5. Using the tucker blade height gage, set the blade height across the length of the jaw cylinder.
6. Tighten all five blade retaining bolts and recheck blade height.

CUTTING RUBBER REPLACEMENT

The knife blade cuts the paper against a rubber insert (Figure X12-4) in the jaw cylinder. This rubber insert through normal use will become worn and ineffective. It

should be checked before each run and replaced when needed.

To replace the cutting rubber, proceed as follows:

1. Rotate the jaw cylinder until the cutting rubber is accessible.
2. Remove the four retaining bolts "A". Remove the cutting rubber keeper along with the worn rubber.
3. Clean all paper dust and foreign mater from the cavity.
4. Insert new rubber and keeper taking care to align the stripper finger grooves in the rubber with those in the cylinder. Tighten retaining bolts "A".

FIGURE X12-3
[Omitted In Printing]

FIGURE X12-4
[Omitted In Printing]

LAP ADJUSTMENT - HALF FOLD

Lap adjustment is obtained by adjustment of the tucker blade and rotation of the jaw cylinder. Lap travel of up to 1/2 inch away from pins to facilitate trimming is available. Reverse lap (toward pins) is restricted to 1/4 inch (See Figure X12-5).

To lap away from pins proceed as follows (Figure X12-6):

1. Back off on lap adjustment screw "A".
2. Reposition tucker blade one-half the amount of desired length of lap away from pins using screw "B".
3. Take up on screw "A" to lock blade into desired position.

4. Open access door on rear of folder.
5. Loosen the six clamping screws on the jaw cylinder drive gear (Figure X12-7).
6. Rotate jaw cylinder the same distance that the tucker blade has been displaced (opposite direction of cylinder rotation).
7. Retighten clamping screws.

For reverse lap use opposite procedure of above.

FIGURE X12-5
[Omitted In Printing]

FIGURE X12-6
[Omitted In Printing]

FIGURE X12-7 – *LAP ADJUSTING SCREWS*
[Omitted In Printing]

SECTION VI

LUBRICATION

To keep the press operating smoothly, efficiently and with a minimum of wear, the moving parts must be lubricated regularly. The amount and type of lubricant and frequency of application depends on the type of bearing or bearing surface to be lubricated. The recommended lubrication intervals given in this manual are based on press operation at normal operating speeds.

METHODS OF LUBRICATION

The methods used to apply lubricant to the components of the press are: brush-on, grease gun, cascading oil and splash-type. Gears receive a cascading oil application of

lubricant. Bearings require application of lubricant by means of a grease gun. The quarter folder is lubricated by a splash-type system. Cams require a brush-on lubricant.

BRUSH-ON LUBRICATION

Use a soft-bristle brush to apply K-Forty/EP Non-Fluid Oil to the parts of the press requiring brush-on application of lubricant. The lubricant should be applied sparingly to these areas.

GREASE OR PRESSURE GUN LUBRICATION

Lubrication for bearings is supplied through grease fittings. It is not necessary to use an air pressure gun to apply lubricant to the grease fittings. A hand-operated grease gun is adequate and is preferred.

PRINTING UNIT LUBRICATION

The following press lubrication instructions will provide you with the necessary information needed to completely lubricate the V-25 printing unit. Listed are the methods of application, lubricating points, intervals, and types of lubricants. Use only the types of lubricants recommended.

PRINTING UNIT MAIN DRIVE HOUSING

(CASCADING OIL)

A – Type of lubricant – Mobil D.T.E. – 25 or Gulf Harmony

B – Maintain level

C – Drain and replenish with new oil every six months

D – check monthly

PAN ROLL MOTORS

A – Type of Lubricant – MOBIL HEAVY MEDIUM D.T.E.

B – Maintain level

C – Drain and replenish with new oil every six months

AIRLINE LUBRICATORS

A – Mobil D.T.E. Light

B – Maintain level

PLATE AND BLANKET CYLINDER BOXES

A – Type of Lubricant – Mobilux EPO

B – Minimum lubrication – approximately one month

PLATE AND BLANKET CYLINDER BEARINGS

A – Type of Lubricant – Mobilux EPO

B – Minimum lubrication – approximately two weeks

TOGGLE LEVERS AND CONNECTIONS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two months

PAN ROLL BEARINGS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

DUCTOR SHAFT AND LEVERS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

INK FOUNTAIN BEARINGS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

MAIN DRIVE BEARINGS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

DUCTOR CAMS AND GUIDES

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

SIDE REGISTER MECHANISM

A – Type of Lubricant – Mobilux EPO

B – Minimum lubrication – approximately two weeks

LEAD AND FEED ROLLS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

FORM AND DAMPENER ROLL LEVER THROWOFF BUSHINGS

A – Type of lubricant – Mobil D.T.E. – Heavy Medium

B – Minimum lubrication – approximately two weeks

BEARER WIPER FELTS

A – Type of lubricant – Mobil D.T.E. – Heavy Medium

B – Each week clean felts with ink solvent. Check for wear and relubricate.

CIRC. REGISTER MECHANISM

A – Type of Lubricant – Mobilux EPO

B – Minimum lubrication – approximately two weeks

PLATE AND BLANKET LOCKUP MECHANISMS

A – Clean and oil with a light machine oil

B – Approximately monthly

MAIN DRIVE MOTOR

A – See Drive Motor Mfg's Specification Sheet.

UNIVERSAL JOINTS

A – Type of Lubricant – Mobilux EP1

B – Minimum lubrication – approximately two weeks

FOLDER LUBRICATION

The folder main drive lubrication is of the wet pump type. Oil under pressure is supplied by an oil pump which supplies oil to spray nozzles mounted in the gear case. A filter is located in the pump suction line. Located on the rear of the folder gear case, below and to the left of the line shaft, is a sight gage for checking the oil level. The proper oil level is halfway up the gage when the folder is not running. The oil level should be checked daily. In addition a visual check should be made through the folder access door for operation of the oil spray

system on the first run of each day. The oil capacity of the sump is 7 gallons (Mobil D.T.E-26).

The quarter folder main drive train is unclosed in a gearbox and is lubricated by a pressure oil system similar to the main folder drive. Oil capacity is 2-1/2 pints.

In addition, grease fittings are provided throughout the folder unit. The following pages provide photographs showing the location of the grease fittings. The photos also show cam and gear locations requiring lubrication. The following schedule should be used:

Lubrication Point	*Method*	*Lubricant*	*Interval (Operating Hrs.).*
Bearings & Bushings	Grease Gun	MobilPlex 4H	100
Cam Ways	Brush-On	K-Forty/EP Non-Fluid or Oil Equivalent	40
Gear Teeth, Chains & Sprockets	Brush-On	K-Forty/EP Non-Fluid or Oil or Equivalent	40

FIGURE X13-1
[Omitted In Printing]

FIGURE X13-2
(SEE FIGURE X8-3)
[Omitted In Printing]

FIGURE X13-3
(SEE FIGURE X8-4)
[Omitted In Printing]

FIGURE X13-4
[Omitted In Printing]

FIGURE X13-5
[Omitted In Printing]

FIGURE X13-6
[Omitted In Printing]

MILL ROLL STAND LUBRICATION

Lubricate the roll stands in accordance with Figure X13-7.

FIGURE X13-7
[Omitted In Printing]

SECTION VII

TROUBLESHOOTING

This section lists trouble symptoms which may be encountered in operation of the Harris V-25 web offset printing press. One or more probable causes are listed under each symptom. Opposite each probable cause a possible remedy is given and where possible.

PRINTING OR IMPRESSION TROUBLESHOOTING

Trouble	*Probable Cause*	*Remedy*
Ink fails to distribute properly and evenly on ink rollers.	Ink screws not set according to image requirements	Adjust ink fountain thumb screws.
Ink rollers will not pick up ink.	Ink may be emulsified on rollers.	Clean ink rollers.

Trouble	*Probable Cause*	*Remedy*
Dampening roller cover becoming overly dirty.	Press being operated with too much ink and moisture.	Adjust ink and water balance.
Scumming of plate.	Too much ink for amount of moisture.	Adjust ink and water balance.
Ink fountain roller becoming scored.	Ink thumb screws set too tightly against fountain blade.	Adjust ink fountain thumb screws.
Printed image weak or gray.	Too much water or not enough ink.	Adjust ink and water balance.
Image fails to pick up ink.	Insufficient ink or too much water.	Adjust ink and water balance.
Image blurred.	Too much ink.	Adjust ink and water balance.
Printed impressions misaligned in finished product.	Side register improperly adjusted.	Adjust the side register adjustment.
	Circumferential register improperly adjusted.	Adjust circumferential register adjustment cap.
	Compensator adjustment improperly set at on printing unit.	Adjust compensator.
	Clutch at one unit engaged out of phase.	Re-engage clutch in proper phase.

WEB FEED TROUBLESHOOTING

Trouble	*Probable Cause*	*Remedy*
Web tears.	Too much tension on brake.	Loosen brake tension.
	Running too much moisture.	Reduce amount of moisture.
Web running too loosely	Insufficient brake tension	Adjust brake tension.
Web not cutting at proper place.	Compensators improperly adjusted.	Readjust compensators.
	Printing unit not timed properly	Retime unit.

FOLDING TROUBLESHOOTING

Trouble	*Probable Cause*	*Remedy*
Web not cutting at proper point.	Folder not timed to printing unit.	Time the folder.
Web will not adhere to cutting cylinder.	Pins broken or bent.	Replace pins.
Web cut by nipper rollers.	Nipper rollers improperly adjusted.	Adjust nipper rollers.
Web not being cut cleanly by knife.	Knife blades improperly adjusted.	Adjust knife blades.
	Cutter rubber worn excessively.	Replace cutter rubber.
	Tabloid slitting knife pressure.	Adjust slitting knife pressure.

Trouble	*Probable Cause*	*Remedy*
Quarter folder not operating properly.	Quarter folder not timed with other units.	Time the quarter folder.
	Quarter folder not engaged.	Engage quarter folder.

GENERAL

CAUTION

DANGEROUS VOLTAGES EXIST WITHIN EVERY PRINTING PRESS ASSEMBLY. WHENEVER ATTEMPTING TO LOCATE ELECTRICAL FAULTS OR REPAIR OR ADJUST ANY PART OF THE PRINTING PRESS OR ITS ASSOCIATED EQUIPMENT, EXTREME CAUTION MUST BE USED TO INSURE THAT NO ELECTRICALLY "LIVE" PARTS ARE TOUCHED. ALWAYS DISCONNECT PRESS FROM POWER LINE BEFORE OPENING ANY DOORS OR ELECTRICAL PANELS.

(1) Underlined items in the Fault Location Chart indicate the correct state, i.e., energized relay or operated switch (even if a component is in its correct state, such as an energized switch or relay, it may still have defective contacts or other not obvious defects).

(2) If you are not able to locate the fault by using the following charts, Ft. Worth (Harris) Service can probably talk you through a more complete test procedure if you will provide yourself with Drawing, No. 755275 and a 115VAC test light, or equivalent, *before* calling for help.

(3) Possible malfunctions are listed in the order in which they are likely to occur.

SECTION VIII – *IMPOSITION CHARTS*

[Omitted In Printing]

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8

NTA GRAPHICS, INCORPORATED, Employer, and GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT-TOLEDO LOCAL 289, Petitioner.	Case No. 8-RC-13648

REQUEST FOR REVIEW AND STAY
OF REGIONAL DIRECTOR'S DECISION
AND DIRECTION OF ELECTION

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
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NTA GRAPHICS, INCORPORATED, Employer, and GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT-TOLEDO LOCAL 289, Petitioner.	Case No. 8-RC-13648

REQUEST FOR REVIEW AND STAY

The employer, NTA Graphics, Incorporated, pursuant to Section 102.67(b) of the Board's Rules and Regulations, hereby requests the National Labor Relations Board to review the Decision and Direction of Election of August 19, 1987, issued by the Regional Director of Region 8, and to stay such Decision and Direction of Election pending such review, for the following reasons:

> (1) The Regional Director's decisions on several substantial issues are clearly erroneous on the record and these errors prejudicially affect the rights of the employer by requiring it to submit a representation election in a fragmented bargaining unit that is not appropriate for the purposes of collective bargaining and was not even described in the Petitioner's original Petition for an election.

(2) A substantial question of law and policy is raised because the Regional Director's decision to fragment an appropriate bargaining unit constitutes a substantial departure from officially reported Board precedent.

MEMORANDUM IN SUPPORT OF REQUEST FOR REVIEW AND STAY

I. STATEMENT OF THE CASE

The Regional Director has directed an election in a bargaining unit consisting of only the "full-time and regular part-time pressroom employees" at the printing facility of NTA Graphics, Incorporated [hereinafter the "Employer" or the "Company"] in Toledo, Ohio. This unit is different and smaller than the unit originally described by the Graphic Communications International Union, Detroit-Toledo Local 289 [hereinafter the "Union" or the "Petitioner"] in its Petition in this case, which unit included "all preparatory department and press department employees."

The Employer asserts that the only appropriate bargaining unit under the circumstances of this case is a traditional production and maintenance unit, consisting of hourly employees in the pressroom, pre-press department, composition department, shipping and receiving department, and maintenance department, all of whom work at the Company's facility in Toledo. Employees in these various departments share common supervision, enjoy a significant degree of interaction, receive very similar compensation and virtually identical benefits, work under identical employment policies, and generally share a community of interest with respect to their terms

and conditions of employment. The employees in the bargaining unit consisting only of the Press Department determined by the Regional Director are not separate and distinct in any relevant sense, nor do they merit separate inclusion as a highly skilled craft unit, as the evidence at the hearing in this case disclosed.

The Employer would also object to the determination of a unit different and smaller than the original unit petitioned for by the Union. In his Decision and Direction of Election, the Regional Director stated that the Union had, in effect, made a motion to contract the scope of the bargaining unit it sought when it filed its post-hearing brief after the representation hearing. The Regional Director concluded that the Employer had not objected to this "motion," and then granted the "motion." Significantly, the Union never filed any motion seeking to amend the unit, but simply made statements to that effect in its post-hearing brief. The Employer's post-hearing brief was due on the same date as the Union's and those briefs were simultaneously exchanged. Thus, even assuming the Union's post-hearing brief was somehow transformed into a "motion" seeking to reduce the size of the bargaining unit, the Employer never had the opportunity to object to such an altered unit.

The Company, therefore, at this time objects to the eleventh hour amendment of the unit description in the Petition for a representation election. This objection is based upon two considerations. First, while preparing for and actually participating in the representation hearing, the Employer assumed that the unit choices would either be the pre-press and press departments originally sought by the Union or the production and maintenance unit

sought by the Employer. The presentation of its case on an appropriate unit was premised upon that understanding, and it would be entirely inequitable, not to say inconsistent with the fundamental requirements of procedural due process, to allow the Petitioner to seek a different unit *after* termination of the hearing.

Second, the Employer is severely prejudiced in any attempt to campaign against Union representation among its employees, since it has now been advised at the last moment that the bargaining unit in which the election will be held is very different from any unit that had previously been contemplated.

For these reasons, the Employer would submit that the Petitioner should not be permitted to make a last minute alteration in the bargaining unit it seeks, and should instead be compelled to either file a new petition in the unit it actually desires to represent or amend its current petition, with appropriate notice and an opportunity to respond afforded to the Employer. Absent such a procedure, the Employer is unlawfully and severely damaged in addressing what will be a most important issue in the future of its business.

II. STATEMENT OF EVIDENCE

The facts purportedly relied upon by the Regional Director in issuing his Decision and Direction of Election significantly distort the evidence presented at the hearing with respect to the nature of the Employer's operation and the terms and conditions of employment of its employees. In some instances, the Regional Director shades the evidence to favor his foregone conclusion that

a small unit of press department employees should be carved out of the Employer's operation. Perhaps even more importantly, though, the Regional Director simply overlooks important evidence presented at the hearing showing the community of interest shared by all of the Employer's hourly employees. The Employer will now discuss what the evidence presented at the representation hearing clearly disclosed concerning the role the Company's employees play in its operations and the conditions of their employment.

A. Introduction

The Company is a relatively simple commercial printing operation, which prints essentially one type of product. It prints advertising inserts for grocery stores to be included in newspapers. (Transcript 15 [hereinafter "T."].)

In printing this product, the Employer has five departments that participate in each project, namely, the Composition Department, the Pre-Press Department, the Press Department, the Shipping/Receiving Department and the Maintenance Department. The petitioner in this case, Graphic Communications International Union, Detroit-Toledo Local 289 [hereinafter the "Union"] seeks an election of only those employees included in the Pre-Press and Press Departments. The Company, on the other hand, submits that a typical production and maintenance unit consisting of employees in all the departments is the only appropriate unit.

B. Functional Integration of the Departments

As indicated above, the Company produces a standard product, which is a grocery advertising insert to be included in newspapers. These inserts are printed on a standard four-color offset Harris Web press. (T. 60, 79.) As Mr. David Tremonti, the Company's Operations Manager testified, this process is a garden-variety offset printing process, and the Employer is "not in the high tech press areas." (T. 28.)

A fundamental, yet erroneous, factor in the Regional Director's analysis of the Employer's operation is that the Press Department and its employees are separate and distinct from the Employer's other departments. The evidence at the hearing was quite the contrary. In actuality, there is, and must be, a great deal of contact and communication between the Press Department and the other departments that precede and follow it in producing the Company's single product, an advertising insert.

Any project received from one of the Company's grocery clients begins with copy provided by the customer, which usually has any art work and typesetting either done or specified in advance. (T. 16.) The project then proceeds to the Composition Department, where job tickets are made instructing all departments on how the job should be performed. These job tickets are then personally distributed to all the other departments. (T. 87-88.) The Composition Department consults with the Pre-Press Department on color and configurations. It also instructs the Press Department on paper size and quantities. The Shipping/Receiving Department is given directions on the timing and destination of shipments. (T. 16.)

Initial preparation of the project requires the Composition Department to frequent the Pre-Press Department regularly to review the copy and discuss the job. This consultation takes from one to five hours per day. (T. 39, 164.)

After the project reaches the Pre-Press Department, the copy provided by the grocery store is photographed, and then the photograph is proofread against the original copy. Strippers employed in the Pre-Press Department take the photographic flats, strip out the color, and then organize the pages in accordance with the instructions provided by the Composition Department. Again, the flats are proofread against the original.

Subsequently, plates are prepared and proofread, and those plates are then assembled and organized, and skid labels and bundle tags prepared by the Compositions Department are attached. (T. 17-18.)

The order in which the projects are run is determined by Plant Superintendent Frank Skwiera. (T. 18.) The various projects in the sequence determined by Mr. Skwiera are then placed in folder racks and made available to the Press Department. (T. 17-18.)

Employees in the Pre-Press Department perform a number of different assignments, including stripping, plating, photographing and proofreading. In the Company's experience, all employees in the Department are called upon to perform all those assignments. (T. 82-83.)

Once the plates are available, employees in the Press Department obtain those plates from the Pre-Press Department. The job is then run, after the plates have

been mounted from the web. The first readable copy is proofread by the pressman against the job tickets prepared by the Composition Department to make sure the pagination is correct. An initial readable copy is also taken back to the Pre-Press Department for proofreading to make sure it conforms to the original copy provided by the customer. (T. 18.)

The pressman is charged with the responsibility of hanging the plates in accordance with instructions on the job ticket prepared by the Composition Department. In addition to then running the job, the pressman checks the ink and water levels, and is expected to do at least some light maintenance. (T. 21-22, 73.)

The pressman is assisted by a jogger, who, in addition to providing miscellaneous help, takes the printed product off the end of the press and sweeps up around the press.

Once the jogger has taken the product off the press, it is picked up by a material handler from the Shipping/Receiving Department. (T. 21-22, 155.) In sum, the jogger is an unskilled worker who helps the pressman. (T. 143-43.) The Company usually selects its pressmen from the ranks of the joggers. (T. 78-79.)

As indicated above, the finished product is removed from the Pressroom by the Shipping/Receiving Department. In addition, Shipping/Receiving Department employees bring the rolls of paper to the press before the run. After the run itself, the Shipping/Receiving Department prepares the product for shipping, takes it to the loading dock, and then stages the pallets of product for

shipping. On occasion, the material handlers in the Shipping/Receiving Department assist the truck drivers in loading the product onto the trucks. Also, those material handlers remove waste from the presses. (T. 19.)

Although the Regional Director concludes that the material handlers spend little time in the Press Department ("a few minutes at most on each trip"), the evidence presented at the hearing was that the material handlers are in and out of the Pressroom "on a continual basis all day long." (T. 35.) They spend some four out of eight hours per shift in the Pressroom. (T. 162-63.)

The Shipping/Receiving Department works off the job tickets prepared by the Composition Department on each and every job to make certain that quantities and destinations are correct. These written instructions are confirmed when the two Departments discuss jobs before departure. (T. 16.)

The Maintenance Department is intimately involved in the production process. The janitorial employees in the Department clean the entire building, including the area around the presses and the walkways through the Pressroom. They also remove ink baskets that the Pressmen do not use. The janitors spend some two to three hours per shift in the Pressroom, which is far more than the Regional Director suggests in observing that they are in the Pressroom "one to three times daily" and spend only "a few minutes at a time." (T. 20-22, 160.)

Other maintenance employees are the mechanical employees, whose primary function is to keep the presses running. In basic terms, they do more elaborate maintenance that the pressmen are unable to do. (T. 20, 23.)

Again, a significant amount of time of the mechanical employees is spent in the Pressroom, despite the Regional Director's implication that they spend little time there. During the week of June 30, 1987, for example, they spent some 30 hours in the Pressroom. (T. 161.)

C. Supervisory Structure

The Company's supervisory structure in the production area is decidedly lean. For most purposes, the only ongoing supervisors are Operations Manager Tremonti and Plant Superintendent Skwiera, and clearly these two gentlemen supervise all the production and maintenance areas. Most day-to-day supervision of *all* departments is left to Mr. Skwiera – a gentlemen who is not even named in the Regional Director's Decision and Direction of Election. (T. 23-28, 122-24, 127-29, 152.)

The Composition and Pre-Press Departments report directly to Messrs. Tremonti and Skwiera. (T. 23-28, 122-24.) The Pre-Press Department has a group leader who handles some of the clerical and report-writing functions and prepares initial schedules to be approved by Mr. Tremonti. (T. 127-28.) This group leader is clearly not, though, a supervisor in most senses, and, in fact, he is an hourly employee like others in his Department and actually makes less than some. (T. 146.) Thus, Messrs. Tremonti and Skwiera exercise direct supervision in both the Composition and Pre-Press Departments.

Operations Manager Tremonti and Plant Superintendent Skwiera, and particularly the latter, head up the Pressroom. (T. 24-25, 128.) Although Scott Shaffer has

supervisory responsibilities during the day shift in the Pressroom, he also serves as a pressman and mechanic. A great deal of actual supervision is left to Messrs. Tremonti and Skwiera. (T. 23-28, 122-24.)

There is a group leader on the night shift in the Pressroom, Hollis Shaffer. Mr. Shaffer does not, though, actually exercise any supervisory responsibility but, rather, he serves to train the other pressmen. (T. 24-25.)

Direct supervision of the Maintenance and Shipping/Receiving Departments is left to Operations Manager Tremonti and Plant Superintendent Skwiera. There is a group leader in the Shipping/Receiving Department, whose job duties include primarily the handling of the paperwork incidental to shipping functions. (T. 23-24.)

D. Employment Policies

The Company requires no particular educational or experience levels for employees in any Department. (T. 28-29.) According to Operations Manager Tremonti, the Company's experience is that everyone is "learning on the job." (T. 154-55.) The Company has no apprenticeship program, nor does it require any special technical schooling of any sort of any of its employees.

An attempt was made at the hearing in this case to imply that the Company's pressmen have certain advanced skills. This contention does not square with the facts of the Company's operation and experience. Incredibly, the Regional Director states that there is only one trainee working in the Pressroom, while the unchallenged

testimony at the hearing was that, at present, eight of the eleven pressmen are actually trainees who, like the Company's other employees, are learning on the job. (T. 153-54.) Pressmen have no particular prior educational experience requirements and, as mentioned above, are typically drawn from the ranks of the unskilled joggers. In actuality, the truck drivers are at least required to have a chauffeur's license, and some of the material handlers have come with a forklift license. (T. 76-77, 93-84.)

Pressmen are given an operating manual prepared by the manufacturer of the press. (Petitioner's Ex. 1.) Other employees in the Pre-Press Department have similar operating manuals for the equipment they use, and the truck drivers are furnished special rules and regulations applicable to them. (T. 91-92, 136.) There is no further evidence of any special expertise required of the pressmen.

The Regional Director failed to even consider the many similarities in wages, hours and working conditions shared by Press Department and other employees. All employees of the Company, with the exception of top management, are hourly employees. (T. 53.) They all punch the same time clock. (T. 40.) The hourly rates for the various departments are largely consistent.

Maintenance Department	$4.50 - $10.00
Shipping/Receiving Department	$4.90 - $ 9.00
Composition Department	$6.05 - $ 7.50
Pre-Press Department	$4.90 - $ 9.50
Press Department	$3.85 - $ 9.00

(T. 44, 143-52.) Employees in the Pre-Press, Maintenance and Shipping/Receiving Departments all work basic shift schedules on a two-to-three shift arrangement. (T. 46-50.) Particular days off in the week may vary a bit from week to week among all the departments, depending upon workloads and the nature of the projects.

Employees in all the departments are subject to the same employment policies and receive the same fringe benefits – a fact overlooked by the Regional Director. They are subject to the same disciplinary rules and procedures, including rules on absenteeism, smoking, telephone calls, solicitation and security. (Employer's Ex. 2; T. 50-51, 54-56.) They all enjoy the same vacation, life insurance and health insurance benefits. (T. 51-53.) They are subject to the same overtime assignment and compensation programs. (T. 54.) They all receive the same shift premium. (T. 159-60.)

E. Employee Facilities

In describing the physical layout of the Employer's facility, the Regional Director ignores the fact that the center of the Employer's plant is the Pressroom where the pressmen and joggers work for the bulk of their workday, and where employees in several other Departments are taken in the performance of their duties, as noted above. (Jt. Ex. 1.) Adjacent to the Pressroom are the Pre-Press

Department, the Shipping/Receiving Department and the maintenance office.

All employees have an additional reason to be in the Pressroom other than the performance of customary job duties. The time clock is located there, which is punched by everyone. (T. 39.) The plant includes a cafeteria and there is a picnic table in front of the plant for use by the employees. These facilities are used by employees in all the departments in issue here, as only the office clerical employees rarely use the cafeteria and picnic table facilities. (T. 43, 118-19.)

The Press Department employees that the Union seeks to include in its unit use a locker room in the Pressroom. This same locker room is used by employees in the Maintenance and Shipping/Receiving Departments that the Union seeks to exclude. (T. 167.) The Regional Director mentions that pressmen are not permitted to enter the front office because they are covered with ink, but fails to mention that they share locker facilities with other employees.

Press Department employees report to the Pre-Press Department to pick up their plates as jobs are performed. In addition, they have occasion to enter the Pre-Press area when problems arise during press runs, for example, the registration is not correct or the plate is not properly fitting on the press. (T. 110, 156.)

III. LAW AND DISCUSSION

The facts presented at the hearing in this case show that the Employer operates what is essentially a single-

product operation. Outside its office staff, all employees are a functionally integral part of the production process, and the single "product" produced by the Employer is passed systematically through all the departments in issue in this case.

Although the Company's production and maintenance employees number some 45, its supervisory staff in the production and maintenance areas is limited to only three persons. As a result, all production and maintenance employees share common supervisors, Operations Manager Tremonti and Plant Superintendent Skwiera.

Hiring standards are the same for all employees, and no particular education, training or experience is required in any department. Different departments have different skills, but employees in all departments are essentially trained on the job.

All employees are hourly employees who punch a time clock. The hourly rates in all the departments are remarkably consistent. All work staggered shift schedules that are largely dependent upon the particular projects for the week.

Employment policies and disciplinary rules are uniform for employees in all departments. They are all provided identical fringe benefits. All the production and maintenance employees use the same cafeteria and picnic table.

The Pre-Press employees the Union originally sought to represent share locker facilities with the Composition employees the Union does not seek to represent. The Press employees the Union seeks to represent share

locker room facilities with the Maintenance and Shipping/Receiving employees the Union does not seek to represent.

Finally, apart from the nearly uniform conditions of employment that all employees share, the evidence is clear that there is an extremely significant degree of contact among the various departments. The Pressroom is the focal point of most of the activity, and the Maintenance and Shipping/Receiving employees spend time there with the pressmen and joggers. There must be a great deal of ongoing communication between the various departments as the project proceeds to completion, with the Composition, Pre-Press and Press Departments working closely together to make sure that the product is correct, and the Shipping/Receiving Department working closely with the Press Department to keep it supplied with paper and keep the product removed as the continuous-shift press operation runs. The Maintenance Department must be constantly available to maintain cleanliness, which is important in the production of newspaper copy that must be clean and readable, and to assure that the presses continue to function. Overall quarterbacking of the operation is left to the Composition Department.

In analogous relatively simple, single-product offset printing operations, the Board has determined that the only appropriate bargaining unit is a typical production and maintenance unit. In *Check Printers, Inc.*, 203 N.L.R.B. 1017, 83 L.R.R.M. (BNA) 1540 (1973), the employer was primarily engaged in printing personal checks and deposit slips for customers of local banks. It utilized an

offset printing process, utilizing Web and Harris offset presses.

The employer's practice was to hire "employees for its press department with a high school education, without commercial printing experience." The new hires participated in a 24-month state-approved training program, but were generally "able to acquire an acceptable skill level for press work in two or three months." The Board noted that "[a]ll production employees punched the same time clock, used the same facilities, and are under the supervision of the general manager in charge of manufacturing." The Board noted that the pressmen were "generally paid the same as other machine operators." In addition, "[a]ll employees share the same holiday and vacation benefits." 83 L.R.R.M. (BNA) at 1540-41.

After reviewing this evidence, the Board held:

> "Contrary to the Regional Director, we conclude that the letterpress and offset pressmen here involved, because of their specialized skills and the fact that they are engaged mainly in relatively simple, repetitive operations, do not constitute the type of printing employees the Board has found to be an appropriate separate unit in commercial printing establishments as a combination of letterpress and lithographic production employees. We find, therefore, that the requested unit is inappropriate. . . . " 83 L.R.R.M. (BNA) at 1541.

In accordance with this reasoning, the Board concluded that the unit requested by the union composed of only pressmen was inappropriate, and that the appropriate unit should be all production and maintenance

employees excluding office clerical employees, guards and supervisors.

The Regional Director attempts to distinguish *Check Printers* on the basis that the pressmen in that case were able to function as such in some two to three months, while the pressmen here supposedly remain trainees for a period of three years. What the Regional Director conveniently fails to mention, though, is that eight of eleven pressmen here are called trainees but presently serve as pressmen and are able to function in that job, just like the pressmen in *Check Printers*. The rule developed by the Board in *Check Printers* is that when pressmen work in a relatively simple, single-product operation and are able to do their work without lengthy apprenticeship periods and high skill levels and enjoy wages, benefits and working conditions similar to other employees – the exact situation presented here – such pressmen do *not* warrant inclusion in a separate craft unit, but, rather, should be joined in a unit with other employees who participate in the production process.

Similarly, in *Texas Color Printers, Inc.*, 210 N.L.R.B. 30, 86 L.R.R.M. (BNA) 1089 (1974), the Board refused in a commercial printing operation to carve out a unit composed of only shipping and receiving employees. The employer was engaged in the offset printing business, and its products included catalogs, Time magazine and other commercial printing products. It divided its plant operations into five departments: Preparation, Press, Bindery, Maintenance and Shipping and Receiving. A group superintendent provided overall supervision to all plant employees, although the shipping and receiving

department was under the immediate supervision of a warehouse foreman.

The Board noted that "[t]he shipping and receiving department employees perform functions closely integrated with plant operations," pointing out that the shipping and receiving employees "haul trash from the plant, make local deliveries, and pick up raw materials, supplies and equipment, as needed." 86 L.R.R.M. (BNA) at 1090. The Board pointed out that the shipping and receiving employees spent a good deal of time in the press area moving materials and cleaning, and that some shipping and receiving employees substituted for joggers on an occasional basis, as is the case here. The Board noted that "[t]here are frequent contacts between the requested employees and other employees in the plant." 86 L.R.R.M. (BNA) at 1090.

The Board also emphasized:

> "All plant employees punch the same timeclock [sic] and share the same shift hours, job benefits and working conditions. All enjoy the same convenience facilities, such as the lunchroom, parking area, restrooms, etc." *Id.*

In view of the extensive contact and communication among all employees and the similarity of working conditions and benefits, the Board held that carving out a subsection of the printing operation would not be appropriate:

> "Here, in view of the frequent work contacts and temporary interchange and overlapping supervision of employees of the shipping and receiving and bindery departments, and in the absence of any bargaining history as to any

> of the plant employees, we find that the shipping and receiving department employees do not enjoy a sufficiently distinct community of interest to warrant their establishment as a separate appropriute [sic] unit apart from other employees. Accordingly, we find the requested unit to be inappropriate."

See, also: W. F. Hall Printing Co. v. NLRB, 540 F.2d 873 (7th Cir. 1976) (in offset printing operation, Court confirms Board's conclusion that bargaining unit should not be limited to pressmen alone, but, rather, should include pressmen, helpers, packers, stock handlers, Overlay and Pre-make Ready employees).

These decisions by the Board confirmed that, in relatively simple printing operations where pressmen are performing repetitive functions with little or no training or expertise, it is not appropriate to carve out a separate unit for those pressmen. Instead, when such pressmen are similar to all other employees in terms of prior education, training and experience, in terms of supervision, in terms of compensation and fringe benefits and do not represent a homogeneous unit that performs a separate function, it does not serve the purposes of the National Labor Relations Act to encourage stable labor relations to establish a separate unit for the pressmen.

In this case, like the Board's decisions discussed above, all production and maintenance employees very clearly share a community of interest. They are part of a single-product, highly-integrated operation that calls for constant interaction backward and forward as the product moves to completion. They share common supervision and nearly identical wage structures and exactly

identical employee policies and fringe benefits. The only appropriate bargaining unit in a case such as this is a production and maintenance unit, which includes all the employees in issue here who work together under virtually identical conditions to produce the same product.

The Regional Director places primary reliance upon the Board's decision in *Continental Web Press, Inc.*, 262 N.L.R.B. 1395, 110 L.R.R.M. (BNA) 1451 (1982). In that case, the Board considered a situation much different than that presented here. The commercial printing operation under consideration in *Continental Web Press* was a sophisticated commercial printing operation where pressmen participated in an apprenticeship program in which an employee moved over a period of time from being a helper to a feeder to a second pressman to a first pressman. The evidence disclosed that the pressmen never left the pressroom even if corrections to the printing plate were required, while the evidence in this case is that, when corrections are necessary, the pressmen work in the Pre-Press Department with employees there to make the corrections. The Board concluded in *Continental Web Press* that there was very little contact between the pressmen and employees in other departments, which is not the case here. Finally, the pressmen in that case had their own locker room, their own employee handbook, and their own wages and other conditions of employment.

Continental Web Press, decided subsequent to *Check Printers*, did not overrule or comment upon the earlier decision. No comment was, though, necessary because the two cases consider different printing operations. *Continental Web Press* considered a sophisticated, highly-skilled printing operation, while *Check Printers* sets forth

the rule in a case such as this in which pressmen assume their duties with little prior skill or training and then work in a single-product, integrated printing operation under supervision and conditions similar to all other employees. Under the Board's analysis in *Check Printers*, which governs this case, all departments in the Employer's operation in this case should be included in the same bargaining unit, and there is no basis to carve out a separate unit for the Press Department alone.

IV. CONCLUSION

For the foregoing reasons, the Employer submits that all the Company's production and maintenance employees share a defined community of interest and should be included in the same unit. For these reasons, the Employer would submit that the Regional Director substantially erred in isolating a unit consisting of only the Press Department employees.

The Regional Director's conclusion is incorrect and the criteria for review by the Board prescribed by Section 102.67(c) are met. The Employer's request for review should be granted and the Regional Director's Decision and Direction of Election should be stayed pending the result of such review.

Respectfully submitted,

SHUMAKER, LOOP &
KENDRICK

/s/ Timothy C. McCarthy
Timothy C. McCarthy

North Courthouse Square
1000 Jackson
Toledo, Ohio 43624-1573
(419) 241-9000

Attorneys for Employer

CERTIFICATE OF SERVICE

This is to certify that eight (8) copies of the foregoing Request for Review and Stay of Regional Director's Decision and Direction of Election were delivered to Federal Express Courier Service for next day delivery to the Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Washington, DC 20570, and that one (1) copy each of same was served, by United States Mail, upon Frederick J. Calatrello, Regional Director, National Labor Relations Board, Region 8, 1695 Anthony J. Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, Ohio 44199, and Roger J. McClow, Esquire, Klimist, McKnight, Sale & McClow, P.C., 26211 Central Park Boulevard, Suite 614, Southfield, Michigan 48076, this 1st day of September, 1987.

SHUMAKER, LOOP &
KENDRICK

/s/ Timothy C. McCarthy
Timothy C. McCarthy

Attorneys for Employer

NLRB-750
(5-1-45)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CERTIFICATION ON CONDUCT OF ELECTION

Name of employer NTA GRAPHICS, INCORPORATED
Case No. 8-RC-13648
Date of election September 25, 1987
Place Toledo, Ohio

The undersigned acted as agents of the Regional Director and as authorized observers, respectively, in the conduct of the balloting at the above time and place.

WE HEREBY CERTIFY that such balloting was fairly conducted, that all eligible voters were given an opportunity to vote their ballots in secret, and that the ballot box was protected in the interest of a fair and secret vote.

For NTA GRAPHICS, INCORPORATED	For the Regional Director, Region 8
/s/ John F. Jackson	/s/ Nancy Butler

For GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT/TOLEDO/ LANSING LOCAL 289, AFL-CIO-CLC

/s/ Steven J. Lonchyna

For

UNITED STATES OF AMERICA

NATIONAL LABOR RELATIONS BOARD

FORM NLRB-4279 (2-88) **RC-RM-RD**

NTA GRAPHICS, INCORPORATED Employer and GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT/TOLEDO/LANSING LOCAL 289, AFL-CIO-CLC Petitioner	**CASE** 8-RC-13648

TYPE OF ELECTION *(CHECK ONE)*	*(ALSO CHECK BOX BELOW WHEN APPROPRIATE)*
___ CONSENT	
___ STIPULATED	
XXX RD DIRECTED	___ 8(b)(7)
___ BOARD DIRECTED	

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots have been cast for

GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT/TOLEDO/LANSING LOCAL 280, AFL-CIO-CLC

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit.

UNIT: All full-time and regular part-time press room employees employed by the Employer at its Toledo, Ohio, facility, excluding all office clerical employees and professional employees, guards and supervisors as defined in the Act and all other employees.

(seal)
Signed at Cleveland, Ohio
On the 9th day of
September 1991

/s/ Frederick J. Calatrello

Regional Director, Region 8
National Labor Relations
Board

(Logo) GRAPHIC COMMUNICATIONS INTERNATIONAL UNION
DETROIT/TOLEDO, LOCAL 289
1111 WOODWARD AVENUE, SUITE 100,
ROYAL OAK, MI 48047 313/395-8333

January 8, 1992

Mr. David Tremonti
NTA Graphics, Inc.
3225 Telegraph Road
Toledo, Ohio 43612

Re: Collective Bargaining

Dear Mr. Tremonti:

This is to request that you, in keeping with the NLRB's November 29, 1991 Supplemental Decision and Order, restore the shift hours of unit employees on the second shift to those that were in effect before you unlawfully changed them in November, 1987. We further request that you meet and bargain with us over hours, wages and other terms and conditions of employment of bargaining unit employees.

We are available to meet in a mutually agreeable place, on the following dates for bargaining at 10:00 a.m.: January 22, 23 or 24, 1992. If we do not hear from you by January 21, 1992, we will assume that you are refusing our request to restore shift hours, and that you are also refusing our request to bargain with us.

Very truly yours,

/s/ Robert J. Ogden
Robert J. Ogden
President

GCIU, Detroit-Toledo-Lansing Local 289M

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afl-cio

AFFILIATED WITH AMERICAN FEDERAL OF LABOR/
CONGRESS OF INDUSTRIAL ORGANIZATIONS •
CANADIAN LABOUR CONGRESS

NTA GRAPHICS INCORPORATED
5225 Telegraph Rd. Toledo, Ohio 43612
Telephone (419) 476-8808

January 15, 1992

Mr. Robert J. Ogden
President
Graphic Communications International Union
Detroit-Toledo-Lansing Local No. 289M
1111 Woodward Avenue, Suite 100
Royal Oak, MI 48065

Dear Mr. Ogden:

You have requested that NTA Graphics, Inc. meet and bargain with your union concerning hours, wages and other terms and conditions of employment of bargaining unit employees. As you are no doubt aware, the Company's position has been that the National Labor Relations Board conducted a representation election in a unit of the Company's employees that is not appropriate for purposes of collective bargaining. Further, the Company contends that the results of that election should be set aside because of objectionable conduct engaged in prior to the election by your union.

In order to obtain appellate review of the National Labor Relations Board's decisions adverse to the Company on these issues, the Company must refuse your request to bargain. In light of this technical refusal to

bargain, there will be no need to meet on the dates proposed by you.

Very truly yours,

Mark J. Jacoby
Vice President Finance

MJJ:jn

cc: Tim McCarthy

GPO: 1984 O - 435-440
FORM EXEMPT UNDER 44 U S C 3512

FORM NLRB-501
(8-83)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case	Date Filed
8-CA-24277	1-27-92

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

---

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

---

a. Name of Employer
NTA Graphics, Inc.

---

b. Number of workers employed
Approx. 45

---

c. Address *(street, city, state, ZIP code)*
5225 Telegraph Road
Toledo, Ohio 43612

---

d. Employer Representative
David Tremonti

---

e. Telephone No.
(419) 476-8808

---

f. Type of Establishment *(factory, mine, wholesaler, etc.)*
Printing Shop

---

g. Identify principal product or service
Printed Materials

---

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and *(list subsections)*
(5)
of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.

---

2. Basis of the Charge *(be specific as to facts, names, addresses, plants involved, dates, places, etc.)*

The Employer has refused to bargain with the Union.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act

---

3. Full name of party filing charge *(if labor organization, give full name, including local name and number)*
Graphic Communications International Union, Detroit-Toledo Local 289

4a. Address *(street and number, city, state, and ZIP code)*
1111 Woodward Avenue, Suite 100, Royal Oak, MI 48067

4b. Telephone No.
(313) 398-8533

---

5. Full name of national or international labor organization of which it is an affiliate or constituent unit *(to be filled in when charge is filed by a labor organization)*
Graphic Communications International Union

---

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By /s/ Steven M. Wolock — Attorney
Steven M. Wolock *(Title, if any)*
(signature of representative or person making charge)

Address 400 Galleria Officentre, Suite 117, Southfield, MI 48034 — (313) 354-9650 *(Telephone No.)*

1/23/92 *(date)*

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)

GPO: 1984 O - 435-440
FORM EXEMPT UNDER 44 U S C 3512

FORM NLRB-501
(8-83)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case	Date Filed
8-CA-24277	2-6-92

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
NTA Graphics, Inc.

b. Number of workers employed
Approx. 45

c. Address *(street, city, state, ZIP code)*
5225 Telegraph Road
Toledo, Ohio 43612

d. Employer Representative
David Tremonti

---

e. Telephone No.
(419) 476-8808

---

f. Type of Establishment *(factory, mine, wholesaler, etc.)*
Printing Shop

---

g. Identify principal product or service
Printed Materials

---

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and *(list subsections)*
(5)
of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.

---

2. Basis of the Charge *(be specific as to facts, names, addresses, plants involved, dates, places, etc.)*

(Since on about January 15, 1992, and earlier,) the Employer has refused to bargain with the Union.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act

---

3. Full name of party filing charge *(if labor organization, give full name, including local name and number)*
Graphic Communications International Union, Detroit-Toledo Local 289

4a. Address *(street and number, city, state, and ZIP code)*
1111 Woodward Avenue, Suite 100, Royal Oak, MI 48067

4b. Telephone No.
(313) 398-8533

---

5. Full name of national or international labor organization of which it is an affiliate or constituent unit *(to be filled in when charge is filed by a labor organization)*
Graphic Communications International Union

---

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By /s/ Steven M. Wolock — Attorney
Steven M. Wolock — *(Title, if any)*
(signature of representative or person making charge)

Address 400 Galleria Officentre, Suite 117, Southfield, MI 48034 — (313) 354-9650 *(Telephone No.)*

2/3/92 *(date)*

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8

NTA GRAPHICS, INC.	
and	Case No. 8-CA-24277
GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT-TOLEDO LOCAL 289, AFL-CIO-CLC	

COMPLAINT AND NOTICE OF HEARING

Graphic Communications International Union, Detroit-Toledo Local 289, AFL-CIO-CLC, herein called the Union, has charged that NTA Graphics, Inc., herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. Based thereon the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (A) The charge in Case No. 8-CA-24277 was filed by the Union on January 27, 1992, and a copy was served by certified mail on Respondent on January 27, 1992.

(B) The amended charge in Case No. 8-CA-24277 was filed by the Union on February 6, 1992,

and a copy was served by certified mail on Respondent on February 10, 1992.

2. (A) At all material times Respondent, an Ohio corporation, with an office and place of business in Toledo, Ohio, herein called Respondent's facility, has been engaged in high volume lithographic commercial printing.

(B) Annually, Respondent, in conducting its business operations described above in paragraph 2(A), sold and shipped from its Toledo, Ohio, facility goods valued in excess of $50,000 directly to points outside the State of Ohio.

3. At all material times Respondent has been engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

David Tremonti	Operations Manager
Mark J. Jacoby	Vice President of Finance

6. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time press room employees employed by the Employer at its Toledo, Ohio, facility, excluding all clerical employees and all professional employees, guards, and supervisors as defined in the Act and all other employees.

7. On September 9, 1991, the Union was certified as the exclusive collective-bargaining representative of the Unit.

8. At all times since September 9, 1991, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

9. About January 8, 1992, the Union, by letter requested that Respondent bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

10. Since about January 15, 1992, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

11. By the conduct described above in paragraphs 9 and 10, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

12. By the conduct described above in paragraph(s) 9 and 10, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

13. The activities of Respondent described above in paragraphs 9, 10, 11, and 12, occurring in connection with the operations of Respondent described above in paragraphs 2 and 3, have a close, intimate and substantial relation to trade, traffic and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

14. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

PLEASE TAKE NOTICE that commencing at 10:00 a.m. on the 14th day of July 1992, and on consecutive days thereafter, a hearing will be conducted in Conference Room 301, Federal Building, 234 Summit Street, Toledo, Ohio, before an administrative law judge of the Board on the allegations in this complaint, at which time and place any party within the meaning of section 102.8 of the Board's Rules and Regulations will have the right to appear and present testimony.

RESPONDENT IS FURTHER NOTIFIED that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Respondent shall file with the undersigned an original and four (4) copies of an answer to this complaint within 14 days from service of it, and that, unless Respondent do so, all the allegations in the complaint shall be considered to be admitted to be true and

shall be so found by the Board. Respondent is also notified that pursuant to the Board's Rules and Regulations, Respondent shall serve a copy of its answer on each of the other parties.

Form NLRB – 4334, Notice, and Form NLRB-4668, Statement of Standard Procedures in Formal Hearings Held Before the National Labor Relations Board in Unfair Labor Practice Cases are attached.

Dated at Cleveland, Ohio, this 25th day of February 1992.

/s/ Frederick J. Calatrello
Frederick J. Calatrello
Regional Director

Attachments

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8

GRAPHIC COMMUNICATIONS INTERNATIONAL UNION, DETROIT-TOLEDO LOCAL 289, AFL-CIO-CLC, Charging Party, and NTA GRAPHICS, INC., Respondent.	Case No. 8-CA-24277

RESPONDENT'S ANSWER TO COMPLAINT

Respondent, NTA Graphics, Inc., by and through its attorneys, Shumaker, Loop & Kendrick, for its Answer to the Complaint herein, says that:

1. (A) It admits the allegations of Paragraph 1(A) of the Complaint.

(B) It admits the allegations of Paragraph 1(B) of the Complaint.

2. (A) It admits the allegations of Paragraph 2(A) of the Complaint.

(B) It admits the allegations of Paragraph 2(B) of the Complaint.

3. It admits the allegations of Paragraph 3 of the Complaint.

4. It is without knowledge or information sufficient to form a belief as to the truth of the allegations Paragraph 4 of the Complaint, and, therefore, it denies those allegations.

5. It denies the allegations of Paragraph 5 of the Complaint.

6. It denies the allegations of Paragraph 6 of the Complaint.

7. It denies the allegations of Paragraph 7 of the Complaint.

8. It denies the allegations of Paragraph 8 of the Complaint.

9. It denies the allegations of Paragraph 9 of the Complaint.

10. It denies the allegations of Paragraph 10 of the Complaint.

11. It denies the allegations of Paragraph 11 of the Complaint.

12. It denies the allegations of Paragraph 12 of the Complaint.

13. It denies the allegations of Paragraph 13 of the Complaint.

14. It denies the allegations of Paragraph 14 of the Complaint.

15. It denies all allegations in the Complaint not expressly admitted to herein to be true.

WHEREFORE, Respondent prays that the Complaint be dismissed and that it recover its costs and attorney's fees herein expended.

/s/ Timothy C. McCarthy
Timothy C. McCarthy

SHUMAKER, LOOP & KENDRICK
North Courthouse Square
1000 Jackson
Toledo, Ohio 43624-1573
(419) 241-9000

Attorneys for Respondent

CERTIFICATE OF SERVICE

This is to certify that the original and four (4) copies of the foregoing Respondent's Answer to Complaint were filed with Frederick J. Calatrello, Regional Director, National Labor Relations Board, Region 8, 1240 East Ninth Street, Room 1695, Cleveland, Ohio 44199-2086, and a copy was served, by United States mail, postage prepaid, upon Steven M. Wolock, Esquire, Klimist, McKnight, Sale, McClow & Canzano, P.C., 400 Galleria Officentre, 27710 Northwestern Highway, Suite 117, Southfield, Michigan, 48034-8460, Counsel for Charging Party, this 9th day of March, 1992.

/s/ Timothy C. McCarthy
Timothy C. McCarthy

Attorneys for Respondent

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD, Petitioner,	)	92 6085 (Filed Aug. 25, 1992)
v.	)	
NTA GRAPHICS, INC., Respondent.	)	

APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States Court of Appeals for the Sixth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (29 U.S.C. Sec.. 151, et seq.), hereinafter called the Act, respectfully applies to this Court for the enforcement of its order and shows:

(1) The unfair labor practice found by the Board occurred within this judicial circuit in the State of Ohio.

(2) On July 24, 1992 upon due proceedings had before the Board in said matter, the Board duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent in Case No. 8-CA-24277.

On the same date, the Board's Decision and Order was served upon Respondent by sending copies thereof postpaid, bearing Government frank, by certified mail.

(3) Pursuant to Section 10(e) of the National Labor Relations Act, as amended, and pursuant to Rule 17(b) of the Federal Rules of Appellate Procedure, the Board will certify and file with this Court a certified list and record of all documents, transcripts of testimony, exhibits and other material comprising the entire record of the proceeding before the Board upon which the said Order was entered, which includes the pleading, testimony and evidence, findings of fact, conclusions of law, and the Order of the board sought to be enforced.

WHEREFORE, the Board prays this Honorable Court that it cause notice of the filing of this application to be served and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and upon the Order made thereupon a judgment enforcing the Board's order.

Aileen A. Armstrong
Deputy Associate General Counsel
NATIONAL LABOR
RELATIONS BOARD

Dated at Washington, D.C.
this 24th day of August, 1992.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD, Petitioner, -vs- NTA GRAPHICS, INC., Respondent.	)	Case No. 92-6085 (Filed Sept 14, 1992)

* * *

ANSWER TO APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States Court of Appeals for the Sixth Circuit:

Comes now NTA Graphics, Inc. [hereinafter "Respondent"], and pursuant to the National Labor Relations Act, as amended (29 U.S.C. §§ 151-69) [hereinafter the "Act"], files this Answer to the Application for Enforcement of an Order of the National Labor Relations Board issued by the Board against Respondent, its officers, agents, successors and assigns.

1. Respondent admits that the acts in issue in this case occurred within this judicial circuit in the State of Ohio. Except as so admitted, it denies the allegations contained in paragraph 1 of the Petitioner's Application for Enforcement.

2. Respondent admits that, on July 24, 1992, the Board issued an Order directed to the Respondent in Case No. 8-CA-24277, and that said Order was served upon

Respondent. Except as so admitted, it denies the allegations contained in paragraph 2 of the Petitioner's Application for Enforcement.

3. Respondent has no knowledge of the matters alleged in paragraph 3 of Petitioner's Application for Enforcement.

4. Further answering, Respondent states that there is no substantial evidence on the record, considered as a whole, to support the findings of the Board that Respondent committed unfair labor practices within the meaning of Section 8(a)(1) and Section (a)(5) of the Act [29 U.S.C. § 158(a)(1) and (5)], and to support the Order of the Board based on such findings.

WHEREFORE, Respondent prays that the Court enter a decree denying enforcement of the Order of the National Labor Relations Board.

/s/ Timothy C. McCarthy
Timothy C. McCarthy

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Attorneys for Respondent,
NTA Graphics, Inc.

Dated at Toledo, Ohio this 11th day of September, 1992.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD,	)	Case No. 92-6085
Petitioner,	)	
-vs-	)	
NTA GRAPHICS, INC.,	)	
Respondent.	)	

* * *

CERTIFICATE OF SERVICE

The undersigned certifies that copies of the foregoing Answer to Application for Enforcement of an Order of the National Labor Relations Board have this day been served by First Class Mail upon the following at the addresses listed below:

Aileen A. Armstrong,
Deputy Associate General Counsel
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Attorneys for Respondent,
NTA Graphics, Inc.

Dated at Toledo, Ohio this 11th day of September, 1992.

Supreme Court, U.S.
FILED
APR 29 1994
OFFICE OF THE CLERK

No. 93-892

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

NTA GRAPHICS, INC.,
Petitioner,
v.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

BRIEF FOR PETITIONER

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Counsel for Petitioner

* Counsel of Record

Dated: April 29, 1994

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001

33 pp

QUESTIONS PRESENTED *

1. In crafting an appropriate bargaining unit in a lithographic printing operation should the National Labor Relations Board be permitted to depart without explanation from its established rule that all employees engaged in the lithographic production process form a cohesive unit and that a unit limited to pressroom employees is inappropriate?

2. Is an agency decision arbitrary, capricious and an abuse of discretion when the agency fails to explain the basis for its decision, particularly when it ignores its own long-standing precedent?

3. Can an agency issue a decision which fails to disclose the basis for its departure from prior precedent, and thus effectively preclude judicial review?

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* All of the parties to the proceeding below are listed in the caption of this case. NTA Graphics, Inc., has no parent companies or subsidiaries.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

No. 93-892

NTA GRAPHICS, INC.,
Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

---

BRIEF FOR PETITIONER

OPINIONS BELOW

The opinion and order of the United States Court of Appeals for the Sixth Circuit, issued on June 21, 1993, is reproduced beginning at App. A1.[1]

On August 19, 1987, a Regional Director of the National Labor Relations Board issued a decision directing a union representation election in a bargaining unit limited to pressroom employees. The Regional Director's decision is reproduced beginning at App. A15.

The September 25, 1987 order of the National Labor Relations Board denying the petitioner's request for re-

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[1] References herein shall be in accordance with the following convention: pages in the Appendix to the Petition for a Writ of Certiorari will be referenced as "App. ——;" pages in the Joint Appendix will be referenced as "J.A. ——."

view of the bargaining unit determination in the representation proceeding is reproduced at App. A13. The July 24, 1992 decision and order of the National Labor Relations Board in the subsequent unfair labor practice proceeding is reported at 307 N.L.R.B. No. 224 and is reproduced beginning at App. A5.

JURISDICTION

This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).

The judgment of the United States Court of Appeals for the Sixth Circuit was entered on June 21, 1993. A petition for rehearing was denied on August 23, 1993. An order signed by Justice John Paul Stevens on November 15, 1993 extended to December 6, 1993 the time to file a petition for a writ of certiorari. The petition was filed on that date.

STATUTES INVOLVED

Relevant portions of Sections 7-10 of the National Labor Relations Act (the "Act"), as amended, 29 U.S.C. §§ 157-60, are set forth below:

> Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities. . . .
>
> Sec. 8. (a) It shall be an unfair labor practice for an employer—
>
> (1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 of this title;
>
> . . . .

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 159(a) of this title.

Sec. 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment. . . .

(b) The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this subchapter, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof. . . .

Sec. 10. (b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency. . . . Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to section 2072 of Title 28.

. . . .

(e) The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

The relevant portions of 5 U.S.C. § 557(c), the Administrative Procedure Act, are set forth below:

> All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—
>
> (A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record. . . .

The relevant portions of 5 U.S.C. § 706, the Administrative Procedure Act, are set forth below:

> The reviewing court shall—
>
> . . . .
>
> (2) hold unlawful and set aside agency action, findings, and conclusions found to be—
>
> (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
>
> . . . .
>
> (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
>
> . . . .
>
> (E) unsupported by substantial evidence. . . .

STATEMENT OF THE CASE

In this proceeding, the United States Court of Appeals for the Sixth Circuit enforced an order of the National Labor Relations Board ("Board") holding that a unit composed solely of the pressroom employees of a lithographic printer is an appropriate unit for collective bargaining. The Board's ruling deviated without explanation from its prior bargaining unit determinations in this industry.

Petitioner NTA Graphics, Inc. ("Company"), is a commercial printer whose single product is advertising inserts

for grocery stores (J.A. 27). The advertisements, which eventually are inserted into newspapers, are printed on a standard four-color offset web press (J.A. 66, 70). The Company is not involved in technically advanced press operations (J.A. 38).

All employees at the Company's single plant are involved, directly or indirectly, in the production of the advertising inserts. The order in which projects are completed is determined by the Plant Superintendent, who has supervisory responsibility for all production employees (J.A. 29, 34-35). In the course of producing the inserts, there is contact and communication between employees in the pressroom and employees whose work precedes and follows the work in the pressroom. Contact between employees in the Press Department and employees in the Pre-Press Department is especially frequent since pressroom work follows sequentially from the work in the Pre-Press Department (J.A. 48-49).

Any project received from one of the Company's grocery clients begins with copy provided by the customer. The project then proceeds to the Composition Department, which prepares job tickets instructing all departments on how the job should be performed. These job tickets are then personally distributed to all the other departments. The Composition Department consults with the Pre-Press Department on color and configurations, spending some one to five hours per day in discussion. It also instructs the Press Department on paper size and quantities. The Shipping/Receiving Department is given directions on the timing and destination of shipments (J.A. 27-28, 164).

After the project leaves the Composition Department, it proceeds to the Pre-Press Department, where cameramen photograph the copy. Strippers in the Pre-Press Department take the photographic flats, separate the colors and then organize the pages in accordance with instructions provided by the Composition Department.

Platers prepare and proofread plates, and these plates are then assembled and organized, with skid labels and bundle tags prepared by the Composition Department attached (J.A. 28-29).

Once the plates become available, employees in the Press Department obtain these plates from the Pre-Press Department, hang them in accordance with instructions on the job ticket prepared by the Composition Department, and begin printing. The first readable copy is proofread by the pressman against the Composition Department's job tickets to ensure the pagination is correct. An initial readable copy is also taken back to the Pre-Press Department for proofreading to make sure it conforms to the customer's original copy (J.A. 29-30, 48-49).

The pressman is assisted by a jogger, who, in addition to providing miscellaneous help, takes the printed product off the end of the press and sweeps up around the press. The Company usually selects its pressmen from the ranks of the joggers (J.A. 32, 83).

The functional integration of the production process is mirrored by the similarity in wages, benefits and working conditions enjoyed by all of the Company's non-managerial employees. All such employees are hourly employees who punch the same time clock, receive the same fringe benefits (vacation, life insurance and health insurance) and are subject to the same disciplinary rules and procedures. Although within each department individual employees are paid at different wage rates, the range of these rates differs little from department to department. For example, the range of wage rates for employees in the Pre-Press Department is from $4.90 to $9.25 per hour whereas the employees in the Press Department receive from $3.85 to $9.00 per hour (J.A. 52). Furthermore, all non-managerial employees are subject to the same overtime assignment and compensation programs and receive the same shift premium (J.A. 47-48, 57-62).

At the time of hire, none of the Company's non-managerial employees are required to meet any specialized experience or education requirements (J.A. 38). Most of the Company's employees learn on the job. For example, in the pressroom eight of the eleven pressmen are considered trainees, *i.e.*, they have less than three years of experience (J.A. 79, 153, 189).

On June 12, 1987, the Graphic Communications International Union, Detroit/Toledo/Lansing Local 289, AFL-CIO-CLC ("Union"), filed a petition with the Board seeking to represent some of the Company's employees in collective bargaining. The Union originally petitioned for a unit consisting of the employees in the Pre-Press and Press Departments (*i.e.*, all employees directly involved in lithographic production operations) (J.A. 9-11). After the representation hearing, however, the Union changed its position and sought a unit limited to employees in the pressroom. The Board's Regional Director adopted the Union's suggestion and ordered an election in a unit composed solely of pressroom employees (App. A15).

The Company sought review of the Regional Director's decision, arguing that Board precedent did not permit pressroom employees of a lithographic printer to be isolated in a separate bargaining unit. The Board denied the Company's request for review in a split decision. Although the Board acknowledged that a unit composed solely of pressroom employees was not "traditional" in the industry, it endorsed the Regional Director's determination that the pressroom employees had a "distinct community of employment interests" (App. A27) through the conclusory statement that there was "insufficient evidence of cohesiveness between the preparatory employees and pressroom employees to warrant a broader unit" (App. A13).[2] Other than noting that the Company

[2] "Preparatory employees" refers to those employees who prepare the materials to be printed. In the context of this case, the employees in the Company's Pre-Press Department would undoubtedly be regarded as preparatory employees.

had asked for "an all-employee unit, not one limited to lithographic production employees" (App. A13), the Board provided no other reason for departing from its long-established rule in the industry. Member Stephens dissented from the Board's disposition, reasoning that the Board should consider the decision in *Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087 (7th Cir. 1984), in which the Seventh Circuit denied enforcement to a similar Board order (App. A14).

The Union prevailed in the representation election held in the pressroom unit that the Board had created and was certified as the exclusive representative of the pressroom employees (J.A. 340). After the Company engaged in a technical refusal to bargain with the Union, an unfair labor practice charge was filed and disposed of through summary judgment.[3] The Board, relying on its earlier bargaining unit determination and certification, ordered the Company to engage in collective bargaining with the Union (App. A5). Pursuant to Section 10(e) of the Act, 29 U.S.C. § 160(e), the Board petitioned the Sixth Circuit for enforcement of its order.

As indicated, the Sixth Circuit enforced the order. The court of appeals, without addressing the Board's departure from the Board's own precedent in certifying a unit limited to pressroom employees, held that the Board had not abused its discretion. The court speculated that there was enough evidence of dissimilar working conditions for the pressmen "to support a conclusion that the pressmen at the Company enjoy a distinct community of interests" (App. A3).

---

[3] An employer who contests a unit determination can obtain court review of this determination only after an unfair labor practice charge has been filed against him under Section 8(a)(5) of the Act, 29 U.S.C. § 158(a)(5), charging him with a refusal "to bargain collectively with the representatives of his employees."

SUMMARY OF ARGUMENT

This case involves the Board's unexplained departure from its own precedent in the course of making a bargaining unit determination. As with any other administrative agency, the Board has an obligation "to explain the rationale and factual basis for its decision." *Bowen v. American Hospital Ass'n*, 476 U.S. 610, 624 (1986). This is especially true where, as here, the Board has departed from a prior norm. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 42 (1983). The Board cannot "overrule *sub silentio* [a] body of Board precedent." *NLRB v. Yeshiva University*, 444 U.S. 672, 687 (1980).

After a labor union petitions for the right to represent a group of employees, the Board must define "the unit appropriate for the purposes of collective bargaining." 29 U.S.C. § 159(b). To carry out this statutory responsibility, the Board examines the working conditions of employees to determine whether they "share a community of interest." *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985). Application of the Board's "community of interest" standard takes place against the background of "rules that the Board develops to circumscribe and to guide its discretion either in the process of case-by-case adjudication or by the exercise of its rulemaking authority." *American Hospital Ass'n* v. *NLRB*, 499 U.S. 606, 611-12 (1991).

One such rule the Board has utilized for approximately five decades is the rule that pressmen and preparatory employees who work for lithographic printers should be combined into one bargaining unit. *E.g., Manz Corp.*, 79 N.L.R.B. 211, 212 (1948). In the instant case, however, the Board departed from this time-honored rule without any explanation. The Board's silence is all the more striking because on the only other occasion when the Board failed to follow this rule, the U.S. Court of Appeals for the Seventh Circuit denied enforcement to the

Board's order. *Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087 (7th Cir. 1984). The *Continental Web* court observed that "far from applying settled principles, the Board . . . reversed a long-established presumption in favor of combining pressmen and preparatory employees into a single unit of lithographic production workers." *Id.* at 1092.

As in *Continental Web*, the Board in this case did not deign to give the parties, or the courts, the benefit of its analysis in sharply departing from almost five decades of precedent. This failure to discharge its obligations renders the Board's ruling fundamentally flawed and the Sixth Circuit erred when, after a cursory review, it enforced the Board's order. To conclude otherwise would permit the Board to conceal the reasons for its decisions and altogether preclude meaningful judicial review.

ARGUMENT

THE BOARD'S ORDER CANNOT BE ENFORCED BECAUSE THE BOARD'S UNIT DETERMINATION CANNOT BE RECONCILED WITH ITS PRIOR RULINGS AND THE BOARD OFFERED NO EXPLANATION FOR ITS INCONSISTENCY

This Court has repeatedly upheld the Board's authority to rely on adjudication rather than rulemaking procedures in formulating "agency policies." *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759, 765 (1969). *Accord NLRB v. Bell Aerospace Co.*, 416 U.S. 267 (1974). Furthermore, the Board may alter its policies through adjudication. The "Board's earlier decisions" do not "fr[eeze] the development of . . . national labor law." *NLRB v. Weingarten*, 420 U.S. 251, 265-66 (1975). However, when the Board departs from prior norms, it must clearly explain the reasons for its decision "so that the reviewing court may understand the basis of the agency's action and so may judge the consistency of that action with the agency's mandate." *Atchison, T. & S.F.R. Co. v. Wichita Board of Trade*, 412 U.S. 800, 808 (1973). The Board

cannot "overrule *sub silentio* [a] body of Board precedent." *NLRB v. Yeshiva University*, 444 U.S. 672, 687 (1980). In this case, the Board, operating under a veil of secrecy, has deviated without explanation from its own long-established precedent. As a result, its order constitutes a gross abuse of discretion and should not be enforced.

A. The Board's Unit Determination In This Case Cannot Be Reconciled With Its Prior Rulings

Typically, the issue of which employees, if any, should be aggregated for purposes of collective bargaining arises when a labor union petitions the Board for the right to represent a group of employees. Section 9(b) of the Act directs the Board, in the course of a representation proceeding, to determine "the unit appropriate for the purposes of collective bargaining." 29 U.S.C. § 159(b). The Board's unit determination is critical, not only because it may affect the outcome of the representation election (in determining which employees are to be included in the unit the Board also determines which employees may be eligible to vote), but because "[t]he bargaining unit provides the formal arena of the entire collective bargaining process." Patrick Hardin, *The Developing Labor Law* 448 (3d ed. 1992). For the employees in the designated unit, their labor union acts "as the employees' exclusive bargaining representative." *Medo Photo Supply Corp. v. NLRB*, 321 U.S. 678, 684 (1944). As one commentator has observed, "[b]argaining unit configuration is an important element in the labor law regulatory scheme . . . [a] unit configuration may have decisive effect on a union's power, on the nature of the goods the union seeks to secure, and on the distribution of those goods." Douglas L. Leslie, *Labor Bargaining Units*, 70 Va. L. Rev. 353 (1984).

The Board's discretion in determining appropriate bargaining units is broad, but it is neither unlimited nor unreviewable. *Yeshiva University*, 444 U.S. at 687-88,

691; *NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. 438, 441-43 (1965). As this Court has observed, "[t]he Board does not exercise this authority aimlessly." *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985). As does any other administrative agency, the Board provides reasons for its decisions, which reasons not only ensure consistency, but enable the courts to exercise meaningful review of the Board's decisions. *SEC v. Chenery Corp.*, 318 U.S. 80, 94 (1943).

Because "[a] cohesive unit—one relatively free of conflicts of interest—serves the Act's purpose of effective collective bargaining," the Board's focus in defining bargaining units "is on whether the employees share a 'community of interest.'" *Action Automotive*, 469 U.S. at 494. This standard is not self-defining and cannot be mechanically applied, but the Board, at least theoretically, avoids arbitrary results as its application of the "community of interest" standard is guided "by the rules that the Board develops to circumscribe and to guide its discretion either in the process of case-by-case adjudication or by the exercise of its rulemaking authority." *American Hospital Ass'n v. NLRB*, 499 U.S. 606, 611-12 (1991).

Through adjudication, the Board has developed a list of factors upon which it will focus in deciding whether a group of employees shares a community of interest. These factors include the employees' compensation, benefits, supervision, skills and training, job functions, contact with other employees and the integration of their work functions. *Kalamazoo Paper Box Corp.*, 136 N.L.R.B. 134, 137-38 (1962). But the Board has gone even further and, to assist it in its statutory duties, it has developed rules pursuant to which certain types of bargaining units will be regarded as presumptively appropriate or presumptively inappropriate. These presumptions not only reduce the Board's administrative burden but also enable employers and unions to predict with greater certainty the likely contours of a bargaining unit. There are many examples of such rules, but a couple will

suffice. Thus, the Board has a rule that "the smallest appropriate unit of technical employees working in similar jobs with similar working conditions and benefits comprises all such technical employees." *Western Electric Co.*, 268 N.L.R.B. 351, 352 (1983). *Accord Aeronautics Corp. of America*, 210 N.L.R.B. 650, 651 (1974). Similarly, the Board has a rule that, in the radio and television industries, "on-air" employees have a distinct community of interest and, therefore, constitute a separate appropriate unit. *E.g., Perry Broadcasting, Inc.*, 300 N.L.R.B. 1140, 1141 (1990); *Hampton Roads Broadcasting Corp.*, 100 N.L.R.B. 238, 239 (1952).

Another rule that the Board has developed through adjudication concerns bargaining units in the lithographic printing industry. For approximately five decades, the Board has followed the rule that pressmen and preparatory employees who work for lithographic printers should be combined into one bargaining unit. *E.g., Typecraft Press, Inc.*, 275 N.L.R.B. 553 (1985); *Earl Litho Printing Co.*, 116 N.L.R.B. 1538, 1539 (1956) ("The Board has consistently held that all employees engaged in the lithographic production process form a cohesive unit for collective-bargaining purposes and has established units which included all such employees, without regard to the specific skills of the employees or the departmental nature of the unit sought."); *Manz Corp.*, 79 N.L.R.B. 211, 212 (1948) ("The Board has repeatedly held that, absent unusual circumstances, all employees engaged in the lithographic process form an indivisible entity for the purposes of collective bargaining.") In the only recognized exception to this rule, the Board will find a plant-wide unit of all production and maintenance employees appropriate where the printer is involved in the production of a single product and the plant-wide unit is of a relatively small size. *E.g., Check Printers, Inc.*, 204 N.L.R.B. 303 (1973).[4] *See also Young & Selden Co.*, 147 N.L.R.B.

[4] Because the Company is likewise engaged in the production of a single product—advertising inserts for grocery stores—and has

67 (1964) (because "imprinting operation is relatively simple . . . only an overall production and maintenance unit . . . is appropriate"). Furthermore, the continuing vitality of the Board's rule does not appear to be in doubt. *See Winchell Co.*, 305 N.L.R.B. 903, 904 (1991), *enf'd mem.*, 977 F.2d 570 (3d Cir. 1992) (certified bargaining unit includes all "lithographic production employees").

In only two cases has the Board departed from this well-settled rule and concluded that a bargaining unit composed solely of pressmen would be appropriate.[5] One case was the instant case and the other was *Continental Web Press, Inc.*, 262 N.L.R.B. 1395 (1982), *enf. denied*, 742 F.2d 1087 (7th Cir. 1984).

In denying enforcement to the Board's order in *Continental Web*, the Seventh Circuit roundly criticized the Board's failure to adhere to its own precedent. The Seventh Circuit pointed out that "far from applying settled principles, the Board . . . reversed a long-established presumption in favor of combining pressmen and preparatory employees into a single unit of lithographic production workers." 742 F.2d at 1092. Moreover, in ignoring its own precedent, the Board "gave no reason why it . . .

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approximately forty-five employees engaged in production and maintenance (J.A. 32, 188-89), it argued before the Board that the most appropriate unit would be one containing all production and maintenance employees (App. A13). However, the Company also argued that even if the Board did not include all production and maintenance workers in the unit, it would still not be "appropriate to carve out a separate unit for . . . pressmen" (J.A. 334).

[5] In the Board's brief in opposition to the petition for a writ of certiorari, the Board cited *Meredith Publishing Co.*, 140 N.L.R.B. 509 (1963) as another example of the Board's willingness to depart from its traditional rule. Brief in Opposition at 10. However, in that case the Board did *not* certify a unit limited to pressmen. To the contrary, the unit included both pressmen and preparatory employees. *Id.* at 512. The only anomaly in the case resulted from the exclusion of some "paste-up" employees on the ground of their prior representation by a rival union.

thought a separate pressmen's unit appropriate," nor did it "explain why it was not applying its traditional policy toward units of lithographic production workers." *Id.* at 1094. In the Board's opinion, and in the opinion of the Board's Regional Director, mention was made of differences in working conditions between the pressmen and other employees, but there was no discussion of the significance of these differences, either in the abstract or against the backdrop of the Board's traditional rule. In particular, there was no analysis of why these differences destroyed the cohesiveness of the various production employees and required a separate unit for pressmen. To quote the trenchant analysis of the court of appeals, "[t]heir opinions recite the differences in working conditions . . . and then tack on a conclusion that therefore the pressmen have a sufficient community of interest to be a separate unit. We understand everything but the 'therefore.' " *Id.* at 1092.

Similarly, in the instant case, the Board made no attempt to explain its departure from precedent. Indeed, the Board itself offered *no* analysis of the differences between the working conditions for pressmen and for other employees involved in the production process. The Board limited itself to stating that "there is insufficient evidence of cohesiveness between the preparatory employees and pressroom employees to warrant a broader unit" (App. A13). Since employees whose interests are not cohesive are never included in the same bargaining unit, this remark is merely a restatement of the Board's conclusion and, as such, no substitute for reasoned analysis.

The Board advanced from the merely tautological to the palpably irrelevant when it stated, as an additional "reason" for not including the preparatory employees in the bargaining unit, that the "Company contended that the only appropriate unit was an all-employee unit, not one limited to lithographic production employees" (App. A13). The Act does not preclude the Board from finding a particular unit appropriate even though neither the em-

ployer nor the union proposed such a unit. Congress chose to have the Board determine appropriate bargaining units and "not to leave the decision up to employees or employers alone." *American Hospital Ass'n*, 499 U.S. at 606. Certainly, in *Moore Business Forms, Inc.*, 216 N.L.R.B. 833 (1975), the fact that the employer proposed a plant-wide unit and the union proposed a pressroom unit did not present an obstacle to the Board's determination that a traditional unit of "lithographic production employees employed in [the] press and preliminary departments" was appropriate.

The Board's Regional Director did, in his opinion, list several differences in working conditions between pressmen and other Company employees (App. A15-28). However, to begin, the Board did not formally adopt the Regional Director's opinion, and, therefore, it remains unclear whether the Board agreed with whatever the Regional Director offered by way of analysis. *But see Magnesium Casting Co. v. NLRB*, 401 U.S. 137 (1971) (Board not obligated to give plenary review to Regional Director's unit determination). In any event, the only authority the Regional Director cited to support his conclusion that the differences in working conditions required a unit limited to the pressroom was the Board's flawed decision in *Continental Web* (App. A26). The Regional Director's reliance on *Continental Web*, without even acknowledging the Seventh Circuit's decision not to enforce the Board's order in that case, and the Board's implicit endorsement of that reliance, are nothing short of remarkable. The Board has often declined to acquiesce in appellate decisions from the circuit courts, *see generally Yellow Taxi Co. v. NLRB*, 721 F.2d 366, 381-84 (D.C. Cir. 1983), but the Board in this case has taken this policy of nonacquiescence to new extremes. In effect, the Board has accepted without elaboration a Regional Director's decision based exclusively on a prior Board order that was denied enforcement on the ground that it departed from decades of Board precedent without justifica-

tion. This is rubber-stamping a cross-reference to a nullity.

The infirmity of the Regional Director's decision is further demonstrated by the fact that differences in working conditions that he identified have been expressly rejected by the Board as relevant differences. Thus, the presence of a wall separating the pressroom from other production areas was not regarded as dispositive in *Moore Business Forms, Inc.*, 216 N.L.R.B. 833 (1975), whereas the Regional Director apparently thought it significant in this case (App. A20). (Indeed, the location of the prepress operations and the press operations on "two separate floors" was not regarded as dispositive in *Typecraft Press*, 275 N.L.R.B. at 553). Division of a lithographer's production workers into different departments, including a separate press department, was not considered relevant in *R.W. Nowels*, 219 N.L.R.B. 222 (1975), whereas the Regional Director apparently thought it significant in this case (App. A20). Similarly, in *Moore Business Forms*, the Board did not place any weight on the fact that a pressman was considered fully qualified only after "approximately 3 years [of] training," 216 N.L.R.B. at 833, whereas the Regional Director apparently thought a three-year training period significant in this case (App. A23).[6]

The Regional Director's listing of purportedly relevant differences was no less distant from Board precedent when he expressly attempted to distinguish *Moore Business Forms* (App. A27). According to the Regional Director, in *Moore Business Forms* the traditional unit was appropriate because there was common supervision for pressroom and preparatory employees on two of three shifts whereas in the instant case the pressroom and the prepress area have separate supervisors (App. A22-23, 27).

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[6] These three factors—the walls separating the pressroom from other work areas, the Company's division into distinct departments and the three-year training period—were the factors the Sixth Circuit emphasized in enforcing the Board's order (App. A3).

However, the record plainly reveals that the night-shift "supervisor" in the pressroom and the "supervisor" in the pre-press area are actually "group leaders," *i.e.*, workers who exercise some supervisory functions but who would be included in the bargaining unit (J.A. 33-37). In *Typecraft Press*, 275 N.L.R.B. at 554, the Board concluded that the fact that the preparatory and pressroom departments had different supervisors—who were called "working forepersons"—was not a fact that destroyed the cohesiveness of the traditional lithographic production unit, even though the working forepersons in that case had enough supervisory authority to be excluded from the bargaining unit. *Id.* at 553 n.5. *A fortiori*, the existence of separate "group leaders" cannot provide a reason for dividing the traditional unit.

The Regional Director's second basis for distinguishing *Moore Business Forms* was that the pressmen and preparatory employees in that case had more contact than could be found in the instant case, in part because in *Moore Business Forms* "[p]reliminary employees were continually in the press area . . . delivering plates" (App. A27). As to this purported distinction, three things can be said. First, as a matter of common sense, in this case there must be contact between the preparatory employees and the pressroom employees: the plates do not walk themselves into the pressroom. Second, the Regional Director conceded at one point in his opinion that "the press operator receives [the plate] from the platemaker" (App. A21).[7] Finally, the Regional Director disregarded an important factor that the Board has emphasized in

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[7] Curiously, the Regional Director, other than this one passing reference, does not address at all the contacts between the platers and strippers and the pressroom employees, even though he does address the contacts between pressroom employees and employees in all other classifications (App. A21-22). In any event, the record unambiguously confirms that there is repeated daily contact between the pre-press employees and the pressroom employees, principally, but not exclusively, through the transfer of plates (J.A. 48-49).

other cases. Thus, in *Typecraft Press*, the Board pointed out that all bargaining unit employees shared an important interest because they were all required to "punch a timeclock." 275 N.L.R.B. at 554. In this case, all the hourly employees in the Company are required to punch *the same* time clock that is located *in the pressroom* (J.A. 47-48). Thus, the preparatory employees, along with all other employees, must, at a minimum, visit the pressroom four times a day to carry out a function the Board has held significant in other cases.[8]

In sum, factors that were not regarded as relevant in other Board decisions have apparently—and we say apparently because the administrative record requires one to speculate—taken on special meaning in this case while factors regarded as relevant in other Board decisions have been capriciously ignored. If the Board has utilized criteria that could reconcile its decision, and the decision of its Regional Director, with decades of opposing precedent, they have not been disclosed. Such an abuse of the Board's discretion mocks this Court's holdings in *Metropolitan Life* and its progeny.

B. The Board Did Not Satisfy Its Obligation To Provide A Reasoned Explanation For Its Decision

This Court has "accorded Board rules considerable deference." *NLRB v. Curtin Matheson Scientific, Inc.*, 494 U.S. 775, 786 (1990). The Board is a specialized administrative agency and Congress has invested the Board with wide discretionary authority in adjudicating disputes within its area of expertise. *Phelps Dodge Corp.*

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[8] To those unfamiliar with bargaining unit determinations, it may appear that punching the same time clock is not an activity that should be a factor in unit determinations. The Board, however, based on its expertise, has often cited the activity of punching the same time clock as a reason for grouping employees together in the same unit. *E.g., Virginia Mfg. Co.*, 311 N.L.R.B. 992, 993 (1993); *Phoenix Resort Corp.*, 308 N.L.R.B. 826, 827 (1992); *Calco Plating, Inc.*, 242 N.L.R.B. 1364, 1365 (1979).

v. NLRB, 313 U.S. 177, 196 (1941). "Furthermore, a Board rule is entitled to deference even if it represents a departure from the Board's prior policy." *Curtin Matheson*, 494 U.S. at 787. No one expects the Board to adhere blindly to its precedent in the face of changed circumstances. "[A]n agency's day-to-day experience with problems is bound to lead to adjustments." *Action Automotive*, 469 U.S. at 495 n.4.

These familiar and uncontroverted propositions have no less application to the rule the Board has adopted with respect to appropriate bargaining units for lithographic printers. If the Board is confronted with changes in the industry that indicate a substantial diminution in the commonality of interest shared by press operators and pre-press employees, then the Board may and should modify its rule. In fact, the Board did at one time consider doing so. In *Allen, Lane & Scott*, 137 N.L.R.B. 223, 225 (1962), a group of employers urged the Board "to reconsider [its] long-standing rules concerning unit determinations in the commercial printing industry." Specifically, the employers contended "that numerous technological developments have caused a shift in the pattern of the industry and resulted in a blending of printing techniques which have almost eradicated those features of lithography distinguishing it from other types of printing." *Id.* As a result, there was no longer a "community of interest among lithographic preparatory and press employees . . . warrant[ing] their inclusion in the same unit." *Id.* The Board, in a well-reasoned opinion, addressed the various changes in the printing industry that had occurred and, after analysis of these changes, concluded "that the evidence does not warrant present reconsideration of the Board's long-standing rules concerning appropriate units in the commercial printing industry." *Id.*

If the Board in the instant case had provided an analysis of the differences in working conditions between prepress and pressroom employees that was even remotely

similar to the type of analysis provided in *Allen, Lane & Scott*, the Company would have no legitimate basis for disputing the Board's determination. But, as indicated, the Board opted for a laconic opinion, utterly devoid of analysis, that was as conclusory as it was brief.

This Court has held that an agency's explanation of the basis for its decision must provide a "rational connection between the facts found and the choice made." *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962). *Accord Bowen v. American Hospital Ass'n*, 476 U.S. 610, 626 (1986); *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983). It cannot be denied that the Board has made no such "rational connection" in this case because it is not even clear what "facts" it has "found;" the Board failed even to identify the specific dissimilarities in employment conditions it regarded as significant. "[T]he Board's opinion may be searched in vain for relevant findings of fact." *Yeshiva University*, 444 U.S. at 691. Nor did the Board discuss why dissimilarities in working conditions destroyed the "community of interest" between pressroom employees and preparatory employees. As a consequence, the Board's "choice" also remains a mystery. In what other circumstances will the Board conclude that a unit other than the "traditional unit" (App. A13) is appropriate? Only when pressroom employees and preparatory employees have separate supervision? How about separate supervision on one of two shifts? Does it matter whether the pressroom is walled off or on a separate floor or in a separate building? What level of contact between preparatory employees and pressroom employees is necessary to establish a community of interests?

All of these issues, and many others, are left unresolved by the Board's unilluminating fiat. As a result, one can expect little predictability in future bargaining unit determinations in the lithographic printing industry since the Board's criteria for commonality of interest are

not only vague, but the Board has declined to identify which of these criteria are germane in the context of lithographic production units. "The Administrative Procedure Act does not require loquacity," *Continental Web Press*, 742 F.2d at 1092, but in this case the Board has "cross[ed] the line from the tolerably terse to the intolerably mute." *Greater Boston Television Corp.*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 923 (1971).

Insistence that the Board share with the parties and reviewing courts the rationale for its decision does not impermissibly enmesh the courts in the business of determining appropriate bargaining units. Congress has prudently delegated to the Board this function. However, the courts retain the responsibility for reviewing the Board's determinations to ensure that they are neither arbitrary nor inconsistent with the purposes of the Act. *Yeshiva University*, 444 U.S. at 691; 5 U.S.C. § 706 (2)(A). To enable the courts to carry out their responsibility, the Board must in its decisions state its "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record." 5 U.S.C. § 557(c)(3)(A). This Court's "recognition of Congress' need to vest administrative agencies with ample power to assist in the difficult task of governing a vast and complex industrial nation carries with it the correlative responsibility of the agency to explain the rationale and factual basis for its decision, even though [this Court] show[s] respect for the agency's judgment in both." *Bowen*, 476 U.S. at 627. There can be no meaningful judicial review of an agency's decision if the courts do not "know what a decision means." *United States v. Chicago, M. St. P. & P.R. Co.*, 294 U.S. 499, 511 (1935).

An agency's obligation to explain its decision is heightened when, as here, the agency departs from a "settled course of behavior." *Atchinson, T. & S.F.R. Co.*, 412 U.S. at 807. "[A]n agency changing its course by

rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which [normally] may be required." *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 42. "[W]hen an agency decides to reverse its course, it must provide an opinion or analysis indicating that the standard is being changed and not ignored, and assuring that it is faithful and not indifferent to the rule of law." *Columbia Broadcasting Sys. v. FCC*, 454 F.2d 1018, 1026 (D.C. Cir. 1971). In the absence of an explanation for the agency's change, "effective judicial review would be impractical if not impossible." *Id.* at 1025. A court cannot in good conscience defer to an unexplained agency position if it has been deferring to a contrary agency position for decades.

Judicial review, of course, cannot be carried out by speculating as to what justification the agency could have, would have or should have provided for its decision. One cannot defer to an imagined rationale. Therefore, the Sixth Circuit's generosity was misplaced when it stated that the record revealed enough differences between the working conditions of pressroom employees and the working conditions of other employees "to support *a* conclusion that the pressmen at the Company enjoy a distinct community of interests" (App. A3) (emphasis added). The issue is whether *the* conclusion made in this case, *i.e.*, the Board's unexplained conclusion, enjoyed a rational connection to whatever facts, if any, the Board found. "[A]n agency's action must be upheld, if at all, on the basis articulated by the agency itself." *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 50. Accordingly, the Sixth Circuit erred in enforcing the Board's order and this Court should reverse the judgment of the court of appeals.

It only remains to point out that the Board's reliance on case-by-case adjudication does not render its decision in the instant case, or in similar cases, "immune from judicial examination." *NLRB v. Brown Food Store*, 380

U.S. 278, 290 (1965).[9] "Subject to the qualified role of *stare decisis* in the administrative process," *Wyman-Gordon*, 394 U.S. at 766, the Board may develop, and has developed, policies through adjudication that serve as precedents. Certainly, the Board, from its earliest days, has regarded itself as obliged to respect its prior decisions. *See, e.g., White Sulphur Springs Co.*, 85 N.L.R.B. 1487, 1488 (1949) ("We can find no adequate reason to depart from a practice adhered to administratively by our predecessors and ourselves since 1935.") Precedents on the subject of bargaining unit determinations are as significant as precedents on other legal issues within the Board's purview and they cannot be abandoned or modified without explanation. *Yeshiva University*, 444 U.S. at 685, 687, 691; *Metropolitan Life Ins. Co.*, 380 U.S. at 442-43. *Accord Continental Web Press*, 742 F.2d at 1093. The Board is free to consider its precedents and conclude they are unwise or not as generally applicable as previously thought, but the Board cannot pretend they do not exist.

Accordingly, any argument to the effect that the Board's decision in this case must be enforced because there is a "need for flexibility in shaping the unit to the particular case," *NLRB v. Hearst Publications, Inc.*, 322

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[9] Some commentators have suggested that the Board has almost invariably utilized adjudication to develop its policies instead of exercising its nearly dormant rulemaking powers because reliance on adjudication makes the Board's decisions less amenable to judicial review. Ursula M. McDonnell, Comment, *Deference to NLRB Adjudicatory Decision Making: Has Judicial Review Become Meaningless?* 58 U. Cin. L. Rev. 653, 658 (1989) (contending that "the most important feature of adjudication is that it allows the Board to ignore its own precedents"); Note, *NLRB Rulemaking: Political Reality Versus Procedural Fairness*, 89 Yale L.J. 982, 990 (1980) (observing that an "advantage of adjudication is that it permits the agency to make policy decisions in the guise of fact determinations" thereby increasing the "likelihood of judicial acquiescence"). The Board, however, has never argued that it has sought, or that it has a right to seek, to minimize judicial scrutiny of its decisions.

U.S. 111, 134 (1944), rests on an erroneous premise. The Company does not dispute that circumstances may arise that require a departure from Board precedent, even a Board precedent as time-honored as the one in the instant case. It is a truism that has been recognized at least since Aristotle that the law is not a purely deductive system and general rules may have to be modified to fit the case at hand. Aristotle, *Nicomachean Ethics*, V. x. One can conceive of situations in which there would be a significant disparity of interests between preparatory employees and pressroom employees, and in such situations the Board could, through reasoned analysis, explain why it is declining to follow precedent. A reflective modification of precedent is not what the Board carried out in this case, however. Stating that these two groups of employees are not cohesive because the record shows "insufficient evidence of cohesiveness" (App. A13) comes perilously close to a parody of reasoned analysis.

The requirement in the Administrative Procedure Act that the agency provide an explanation for its decision not only enables the courts to engage in meaningful review, but it also "impose[s] a discipline upon the agency itself, assuring that it has undergone a process of reasoned decision-making rather than haphazardly reached a result that could (on one or another basis of analysis) be sustained." *International Ass'n of Bridge Workers v. NLRB*, 792 F.2d 241, 247 (D.C. Cir. 1986). To reverse the judgment of the court of appeals, with the direction that enforcement of the Board's order be denied, implies no invasion of the Board's domain. The Court will not usurp the Board's authority by reminding it that it must discharge its statutory responsibilities.

C. No Bargaining Order Should Be Enforced Against The Company

When an agency fails to provide an explanation for its decision, the usual remedy is to remand the case to the agency "for further proceedings." *Metropolitan Life Ins.*

Co., 380 U.S. at 444. Nevertheless, in some circumstances, "remand would be an idle and useless formality." *Wyman-Gordon*, 394 U.S. at 766 n.6.

This case presents such a circumstance. The Board has in effect twice passed on the opportunity to explain why it believes it should abandon its traditional rule regarding bargaining units in the lithographic printing industry, once in *Continental Web* and once in the instant case. Three bites at the apple would be excessive. *See UAW v. NLRB*, 459 F.2d 1329, 1347 (D.C. Cir. 1972) (court specifies disposition of case instead of allowing Board a third opportunity to ignore precedent). Based on the Board's own precedent, a bargaining unit limited to the pressroom was inappropriate, and there is no need to remand to the Board for a restatement of the applicable law. *E.g., District Lodge 91, IAM v. NLRB*, 814 F.2d 876, 882 (2d Cir. 1987) (when a case has been decided on the basis of an uncomplicated factual record and the applicable legal principles are clear, there may be "no reason to remand for reconsideration.").

At a minimum, if the case is remanded to the Board, it should be remanded with instructions that, whatever the Board's bargaining unit determination, the Board not issue an order requiring the Company to bargain with the Union, absent a new representation election. It has been nearly seven years since the initial representation election was held (J.A. 338). Given the passage of time, a Board order requiring the Company to bargain with the Union "would . . . be subject to the objection that it might force the company to negotiate with a union not supported by a majority of the workers in the bargaining unit." *Continental Web*, 742 F.2d at 1095. Accordingly, a bargaining order would not effectuate the policies of the Act.

CONCLUSION

For all the foregoing reasons, this Court should reverse the judgment of the court of appeals.

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No. 93-892

IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

NTA GRAPHICS, INC.,
Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

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BRIEF FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Whether an administrative agency such as the National Labor Relations Board may depart from prior adjudicative decisions reflecting one of its established policies without providing a reasoned explanation of its legal basis or reasons for doing so.

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BRIEF FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AS AMICUS CURIAE IN SUPPORT OF PETITIONER

INTEREST OF THE AMICUS [1]

The Chamber of Commerce of the United States of America ("Chamber"), a nonprofit corporation organized and existing under the laws of the District of Columbia, is the largest federation of business, trade, and professional organizations in the United States. It represents the interests of over 220,000 corporations, partnerships, and proprietorships, as well as state and local chambers of commerce and trade associations. The Chamber regularly represents the interests of its member-employers in important employment matters before the courts, the

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[1] The parties' letters of consent have been filed with the Clerk pursuant to Rule 37.3 of this Court.

United States Congress, the Executive Branch, and independent regulatory agencies of the Federal government.

The Chamber has a significant interest in the question presented in this case. The Chamber's members regularly appear before administrative agencies and are concerned with receiving rational and explicable decisions from those agencies. Moreover, a large number of the Chamber's members are subject to the National Labor Relations Act ("Act"), 29 U.S.C. §§ 151-169 (1988), and frequently appear before the National Labor Relations Board ("Board") in a variety of proceedings. The Board's ability to reverse or depart from policy and precedent without notice or serious explanation undermines the business operations of the Chamber's members by exposing them to uncertain and ever-changing labor and employment policies.

STATEMENT OF THE CASE

This case presents a significant example of how the enormous power reposed in modern administrative agencies can be abused. Specifically at issue is whether the Board may depart without serious or understandable explanation from its long-established policy of including at least pre-press and press department employees in the lithographic printing industry in the same bargaining unit. More generally at issue is whether and how courts should police the raw, unexplained exercise of administrative power in circumstances that involve an acknowledged departure from prior administrative decisions. The more general question is pertinent not only to businesses subject to regulation under the Act, but also to businesses that are subject to regulation under any statutory scheme that confers regulatory authority on an administrative agency (*e.g.*, the Federal Communications Commission, the Federal Trade Commission, the Environmental Protection Agency). The background of the proceedings is as follows:

1. Petitioner, NTA Graphics, Inc. ("Petitioner") is a single-product, commercial lithographic printer that pro-

duces newspaper advertising inserts for grocery stores. Pet. App. A19. Like essentially all commercial lithographic printers, Petitioner produces these advertising inserts through a production process that is divided among five departments: a composition department, a pre-press department, a press department, a shipping and receiving department, and a maintenance department. *Id.* at A19-A20.

In the production process, the composition department receives copy from a customer and consults with the pre-press department on color and other printing configurations. Pet. App. A19-A20. The composition department then gives the press department instructions on paper size and quantities to be produced. *Id.* at A20. The shipping and receiving department ensures that Petitioner's newspaper advertising inserts are timely delivered to customers. *Id.* And, finally, the maintenance department cares for the physical facilities of the production operation. *Id.*

There is apparently little day-to-day contact among the employees of the five departments. Pet. App. A21-A22. Each department has a separate direct supervisor, though there is common management. *Id.* at A22. The skills of the employees in the departments also vary to some extent, and different degrees of prior experience and training apparently are required to perform the jobs in the various departments. *Id.* at A23. In addition, the rates of pay, working hours and uniforms for the employees in the departments apparently differ to some extent. *Id.* at A24-A25. Finally, there is apparently little transfer or interchange among the departments. *Id.* at A25-A26.

2. In 1987, the Graphic Communications International Union, Detroit/Toledo/Lansing Local 289, AFL-CIO-CLC ("Union"), filed a petition seeking to represent the employees in Petitioner's pre-press and press room departments. Pet. App. A7. Petitioner opposed the petition on the ground that in its workplace the appropriate bargain-

ing unit should consist of all production and maintenance employees. *Id.* at A19. After a hearing, the Union changed course and argued in a post-hearing brief that the bargaining unit should be limited to only the press department employees. *Id.*

The Board's Regional Director agreed with the Union's altered position. Pet. App. A15. The Regional Director acknowledged that pre-press employees in the commercial lithographic industry are traditionally included in the same bargaining unit as press department employees. *Id.* at A25; *see also id.* at A27. But the Regional Director found the facts of the instant case to "closely parallel those in *Continental Web Press, Inc.*, 262 N.L.R.B. 1395 (1982), in which the Board found that the press room department employees shared a distinct community of interests." Pet. App. A26. And the Regional Director distinguished a case involving a traditional lithographic industry bargaining unit that included both pre-press and press department employees, *Moore Business Forms, Inc.*, 216 N.L.R.B. 833 (1975), on the ground that, in that case, pre-press and press department employees worked under common supervision, frequently visited the other employees' working areas, and performed tasks in the other employees' working areas. Pet. App. A27.

3. In a split decision, the Board summarily denied Petitioner's request for review of the Regional Director's decision, stating that it agreed "with the Regional Director that the facts here warrant a departure from the traditional unit of lithographic production employees as there is insufficient evidence of cohesiveness between the preparatory employees and pressroom employees to warrant a broader unit." Pet. App. A13. Chairman Stephens dissented, stating that in his view the Board should "determine the applicability of *Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087 (7th Cir. 1984)," the federal court of appeals' decision which had denied enforcement of the Board decision that the Regional Director relied upon in reaching his decision. *Id.* at A14.

4. The Board then held an election and certified the Union as the collective bargaining representative of the press department employees. Pet. App. A7-A8. Petitioner, however, refused to bargain with the Union. *Id.* at A8. Accordingly, the Union filed unfair labor practice charges and the General Counsel issued a complaint alleging that Petitioner had violated Sections 8(a)(5) and (1) of the Act. *Id.* at A5. The Board thereafter granted the General Counsel's motion for summary judgment and ordered Petitioner to bargain with the Union. *Id.* at A6.

5. On appeal, the Sixth Circuit enforced the Board's order. Pet. App. A1-A4. The court found that "[t]he record supports a finding of differences in working conditions sufficient to support a conclusion that the pressmen at the Company enjoy a distinct community of interests." *Id.* at A3. In support of this conclusion, the court noted that the press room is physically separate from the other departments; that the press room employees have different skills than the employees in other departments; that there is not any significant interchange or transfer among employees in the various departments; and that the press room employees have separate supervision, may work a different schedule, and are paid on a different scale. *Id.* at A3-A4.

SUMMARY OF ARGUMENT

I. This case is about an abuse of the considerable discretionary powers that administrative agencies such as the Board possess. As is true of all administrative agencies that are responsible for administering statutory schemes, the Board has considerable discretion in enforcing the Act, especially in determining appropriate bargaining units. But this Court has made it plain that the Board's discretion, including its discretion in unit determinations, is not unbounded. On the contrary, the Court has made it clear that important principles of administrative law bound that discretion and thereby prevent the Board from abusing its administrative powers.

First, like all administrative agencies, the Board must disclose the basis for its orders. Second, the basis for the Board's orders must not be arbitrary or capricious; there must be a rational connection between the facts found and the choice made by the Board. And, finally, when the Board departs from prior decisions, it must acknowledge the change in course and supply a reasoned basis for its departure from its prior decisions.

With respect to this latter requirement, it is well-established that, while the Board may adopt new rules and orders in response to changed circumstances, the Board may not adopt rules and orders that, like a restricted railroad ticket, are good for one time and one place only. Like all administrative agencies, the Board must act in a reasoned and principled way. Moreover, it is also well-established that, once a settled course of behavior has been established, there is a presumption that the Board will not depart from it. If the Board choses to do so, it is obligated to supply a reasoned analysis for the change beyond that which may be required when it acted or did not act in the first instance. And, to the extent that the Board seeks to rely on factual differences to distinguish prior cases, some legislative policy must make those factual differences relevant and material. These requirements prevent the arbitrary exercise of the Board's enormous administrative powers.

II. The Board's decision here does not conform to these administrative law requirements. As it has tried to do numerous other times in different areas of labor policy, the Board departed from its established policy without providing any justification for its action. The Board appears to have acknowledged that it was departing from prior decisions in approving a bargaining unit of only press department employees in the lithographic printing industry. But the Board did not provide an acceptable explanation for this departure.

The Board's single statement that there is insufficient evidence of cohesiveness between Petitioner's pre-press

and press department employees is more a conclusion than an explanation. It does not explain *why* the requisite cohesiveness is missing. It does not explain *how* the interests of the pre-press department's employees will be protected. And it does not explain *what* difference in evidence of cohesiveness exists between the facts of this case and the facts of the many cases in which the Board has found that pre-press and press department employees of commercial lithographic industry employers should be included in the same bargaining unit.

Nor does the Regional Director's decision provide the necessary explanation. The Regional Director purported to justify the departure from prior policy by reference to a Board decision that the Regional Director failed to acknowledge had been repudiated by a distinguished court of appeals and that itself erroneously denies that such a prior policy ever existed. Moreover, while the Regional Director identified factual distinctions between this case and other cases that the Board has decided, he did not explain why these factual differences should lead to a different legal result—which is precisely the explanation that administrative law principles require an agency to give before it may depart from prior decisions. And, in all events, the factual differences the Regional Director identified range from the unconvincing to the trivial. Accordingly, they do not suffice to allow a departure from prior decisions of the Board.

III. The post-hoc rationalizations of the court of appeals and the Solicitor General cannot and do not substitute for the reasoned explanation that the Board was required but failed to give for its departure from prior decisions and policy. This Court has long held that neither appellate counsel nor appellate courts may supply a reasoned basis for an administrative agency's action that the agency has not itself given. And, in all events, both the court of appeals and the Solicitor General rely on the same factual differences that the Regional Director relied upon—factual differences that appear trivial and

that do not begin to explain why Petitioner's employees should be treated differently than the employees of other lithographic industry employers who have in the past come before the Board. To allow such trivial and unexplained distinctions to justify a departure from such a long-standing course of administrative decision would mean, contrary to all principles of administrative law, that administrative agencies such as the Board rule with no practical limits on their discretion at all. That is not and should not be the law.

ARGUMENT

Long ago, Professor Louis Jaffe poignantly observed that: "Discretion, however valuable, can be a facade for inadequate thinking, failure to face issues, hidden expediencies, or downright dishonesty. These vices multiply in large, overworked agencies where the power of decision may be fractionated and diffused." Louis L. Jaffe, *Judicial Control of Administrative Action* 588 (1965). These vices are at work in this case.

Under the Act, the Board has considerable discretion to determine appropriate bargaining units. *South Prairie Constr. Co. v. Local 627, Int'l Union of Operating Eng'rs*, 425 U.S. 800, 805 (1976) (per curiam). However, long-established principles of administrative law provide that, in exercising this discretion, an administrative agency such as the Board must explain its decisions and, in particular, any departures from prior decisions and policies. *NLRB v. Bell Aerospace Co. Div. of Textron, Inc.*, 416 U.S. 267, 289 (1974); *NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. 438, 442-44 (1965). The requirement that an agency such as the Board explain its decisions and, especially, any departures from prior decisions and policies is aimed at ensuring that the agency's discretion is fairly and rationally exercised and that prior policies and standards are not being ignored in a manner indifferent to the rule of law. *CBS v. FCC*, 454 F.2d 1018, 1026 (D.C. Cir. 1971).

The court below enforced the Board's order in this case on the ground that the record was sufficient to support a finding that Petitioner's press room employees had a distinct community of interests. The court below made no effort, however, to require the Board to explain why in the past it had consistently required, on similar factual records, that at least pre-press department employees in the lithographic printing industry be included in the same unit with the press department employees. By failing to require such an explanation, the court below improperly approved an uncabined and unexplained exercise of an administrative agency's power—an exercise of power that important and long-established principles of administrative law are designed to constrain and control. This Court should not allow either the erroneous decision of the court below or this arbitrary exercise of the Board's power to stand.

I. THE BOARD MUST PROVIDE A REASONED EXPLANATION FOR ITS DECISIONS AND ANY DEPARTURES FROM PRIOR DECISIONS OR POLICY

As is true of all administrative agencies that are responsible for administering statutory schemes, the Board has considerable administrative discretion—especially insofar as it is responsible for selecting appropriate bargaining units. Section 9(b) of the Act expressly confers upon the Board the authority to "decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by [the Act], the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or a subdivision thereof." 29 U.S.C. § 159(b). This Court has thus said that "the selection of an appropriate unit lies largely within the discretion of the Board, whose decision, 'if not final, is rarely to be disturbed.'" *South Prairie Constr. Co. v. Local 627, Int'l Union of Operating Eng'rs*, 425 U.S. at 805 (quoting *Packard Motor Co. v. NLRB*, 330 U.S. 485, 491 (1947)). Indeed, the Court

has said that this deference is particularly appropriate in the context of bargaining unit determinations, since the Board's discretion there "reflect[s] Congress' recognition 'of the need for flexibility in shaping the [bargaining] unit to the particular case.'" *NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 494 (1985) (citation omitted).

But, like the discretion of other administrative agencies, the Board's considerable discretion is plainly bounded. *Accord, Packard Motor Co. v. NLRB*, 330 U.S. at 491-92; *see also FCC v. RCA Communications, Inc.*, 346 U.S. 86, 90 (1953) ("Congress did not purport to transfer its legislative power to the unbounded discretion" of the agency). "The Administrative Procedure Act [("APA")] ensures that the massive federal bureaucracy remains tethered to those it governs," *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1483-84 (9th Cir.), *cert. denied*, 113 S. Ct. 598 (1992), and the APA applies with full force to the Board's decisions, including its unit determinations. *See Packard Motor Co. v. NLRB*, 330 U.S. at 491-92; *NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 442-44. Thus, this Court has made it plain that "[r]eviewing courts are of course not 'to stand aside and rubber stamp' Board determinations that run contrary to the language or tenor of the Act," *NLRB v. Weingarten, Inc.*, 420 U.S. 251, 266 (1975) (citation omitted). Rather, as this Court has stated in an analogous context, the applicability of the Administrative Procedure Act confirms that Congress understood that "[e]xpert discretion is the lifeblood of the administrative process, but 'unless we make the requirements for administrative action strict and demanding, *expertise*, the strength of modern government, can become a monster which rules with no practical limits on its discretion.'" *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 167 (1962) (citation omitted); *see generally* L. Jaffe, *supra*, at 588.

First among the "strict and demanding" requirements that the APA imposes is the requirement that, like agen-

cies such as the FCC and FTC, the Board must "disclose the basis of its order" and "give clear indication that it has exercised the discretion with which Congress has empowered it." *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177, 197 (1941). *Accord, NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 442-43. The Act expressly states that the Board's orders are enforceable only if they are supported by "substantial evidence." *See* 29 U.S.C. § 160(e); *see also* 5 U.S.C. § 706(2)(E) (1988). And this Court has repeatedly held that, pursuant to the requirements of the APA, the Board, like all other administrative agencies, "must set forth clearly the grounds on which it acted." *Atchison, T. & S. F. Ry. v. Wichita Bd. of Trade*, 412 U.S. 800, 807 (1973). *See NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 443-44; *Phelps Dodge Corp. v. NLRB*, 313 U.S. at 197. As the Court has stated, "Congress' need to vest administrative agencies with ample power to assist in the difficult task of governing a vast and complex industrial Nation carries with it the correlative responsibility of the agency to explain the rationale and factual basis for its decision." *Bowen v. American Hosp. Ass'n*, 476 U.S. 610, 627 (1986).

Second but no less important among the "strict and demanding" requirements that the APA imposes to constrain properly the exercise of the Board's vast administrative power is the rule that the Board, like all other administrative agencies, may not act arbitrarily and capriciously. *ABF Freight System, Inc. v. NLRB*, 114 S.Ct. 835, 839 (1994); *Packard Co. v. NLRB*, 330 U.S. at 491; *May Department Stores Co. v. NLRB*, 326 U.S. 376, 380 (1945). "Agency deference has not come so far that we will uphold [administrative action] whenever it is possible to 'conceive a basis' for [it]." *Bowen v. American Hospital Ass'n*, 476 U.S. at 626. "[T]he mere fact that there is 'some rational basis within the knowledge and experience of the [regulators],' under which they 'might have concluded' that the regulation was necessary to discharge their statutorily authorized mission, will not suffice

to validate agency decision-making." *Id.* at 626-27 (citations omitted). Rather, as is true of other administrative agencies, the Board must state the reasons for its actions and those reasons must articulate a "rational connection between the facts found and the choice made." *Burlington Truck Lines, Inc. v. United States*, 371 U.S. at 168; *NLRB v. International Union of Operating Eng'rs*, 460 F.2d 589, 604 (5th Cir. 1972). The Board's decision will be set aside if it has "relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983); *NLRB v. Curtin Matheson Scientific, Inc.*, 494 U.S. 775, 799 (1990) (Blackmun, J., dissenting); *International Union (UAW) v. NLRB*, 459 F.2d 1329, 1342-44 (D.C. Cir. 1972).

Third but again no less important among the "strict and demanding" requirements that the APA imposes to constrain the Board's vast administrative discretion is the rule that, when an administrative agency such as the Board departs from prior decisions or policy, it must acknowledge the change in course and supply a reasoned basis for its departure from the prior decisions or norm. *See NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 443; *NLRB v. Bell Aerospace Co. Div. of Textron, Inc.*, 416 U.S. at 289; *NLRB v. Curtin Matheson Scientific Co.*, 494 U.S. at 799-800 (Blackmun, J., dissenting). "Regulatory agencies do not establish rules of conduct to last forever," *American Trucking Ass'n v. Atchison, T. & S. F. Ry.* 387 U.S. 397, 416 (1967), and the Board like other administrative agencies "must be given ample latitude to 'adapt [its] rules and policies to the demands of changing circumstances.' " *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 42 (cita-

tion omitted); *NLRB v. Bell Aerospace Co. Div. of Textron, Inc.*, 416 U.S. at 294. But "there may not be a rule for Monday, another for Tuesday, a rule for general application, but denied outright in a specific case." *NLRB v. International Union of Operating Eng'rs*, 460 F.2d at 604 (footnote omitted).

On the contrary, a "settled course of behavior embodies the agency's informed judgment that, by pursuing that course, it will carry out the policies committed to it by Congress. There is, then, at least a presumption that those policies will be carried out best if the settled rule is adhered to." *Atchison, T. & S. F. Ry. v. Wichita Bd. of Trade*, 412 U.S. at 807-08. Thus, while the Board may depart from prior decisions and norms, like other administrative agencies, when it wants to do so, it must expressly acknowledge that "prior policies and standards are being deliberately changed, [and] not [being] casually ignored." *Greater Boston Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970), *cert. denied*, 402 U.S. 923 (1971). And, like other administrative agencies in such circumstances, the Board "is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency [acts or] does not act in the first instance." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 42. *See NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 442-43.

In particular, in such circumstances, not only must the Board articulate a "rational connection between the facts found and the choice made," *Burlington Truck Lines, Inc. v. United States*, 371 U.S. at 168, but the Board must also explain "its departure from prior norms" and "spell[] out the legal basis of its decision." *Secretary of Agriculture v. United States*, 347 U.S. 645, 653 (1954); *NLRB v. International Union of Operating Eng'rs.*, 460 F.2d at 604. "The agency may flatly repudiate those [prior] norms, deciding, for example, that changed circumstances mean that they are no longer required in order to effectuate congressional policy. Or it may nar-

row the zone in which some rule will be applied, because it appears that a more discriminating invocation of the rule will best serve congressional policy. Or it may find that, although the rule in general serves useful purposes, peculiarities of the case before it suggest that the rule not be applied in that case." *Atchison, T. & S. F. Ry. v. Wichita Bd. of Trade*, 412 U.S. at 808. "Whatever the ground for the departure from prior norms, however, it must be clearly set forth so that the reviewing court may understand the basis of the agency's action and so may judge the consistency of that action with the agency's mandate." *Id.* And, of course, factual differences may be relied on to distinguish prior cases and norms "only when some legislative policy makes the differences relevant to determining the proper scope of the prior rule." *Id. Accord, Secretary of Agriculture v. United States*, 347 U.S. at 653-55. It is precisely because statutory standards are general and administrative discretion is almost necessarily so great that courts must "insist that the Board apply with reasonable consistency whatever standard it adopts to guide the exercise of its delegated power." *Continental Web Press, Inc. v. NLRB*, 742 F.2d 1087, 1089 (7th Cir. 1984). *Accord*, L. Jaffe, *supra* at 587.

II. THE BOARD HERE DID NOT PROVIDE A REASONED EXPLANATION FOR ITS DEPARTURE FROM PRIOR DECISIONS AND POLICY

The Board's decision here cannot be sustained under these controlling administrative law standards. The Board appears to have acknowledged that it was departing from prior decisions and policy in approving a bargaining unit in the lithographic printing industry composed of only press department employees. *See* Pet. App. A13. But the Board did not provide an acceptable explanation of the basis for its departure.

The Board's explanation of its decision in this case consists of a single statement—to wit, that the Board agreed with the Regional Director that "the facts here

warrant a departure from the traditional unit of lithographic production employees as there is insufficient evidence of cohesiveness between the preparatory employees and press room employees to warrant a broader unit." Pet. App. A13. But this assertion is more a conclusion than an explanation. The Board did not explain *why* the evidence in the record failed to demonstrate the requisite cohesiveness; it just asserted that the cohesiveness between these employee groups is not sufficient. Moreover, the Board did not explain *how* the interests of the pre-press employees would be properly protected—an issue that the Board's congressional mandate requires the Board to consider and address. *See, e.g., Continental Web Press, Inc.*, 742 F.2d at 1091; *NLRB v. Meyer Label Co.*, 597 F.2d 18, 22 (2d Cir. 1979). And the Board did not explain *what* difference in evidence of cohesiveness exists between the facts of this case and the facts of the many cases in which the Board has found that pre-press and press department employees of lithographic industry employers should be included in the same bargaining unit. *See Continental Web Press, Inc. v. NLRB*, 742 F.2d at 1092-93 (reviewing Board decisions in this area).

Administrative law principles do "not require loquacity" on the part of an administrative agency such as the Board, especially where it is merely applying prior precedent. *Id.* at 1092. But, where an agency is departing from prior decisions or policy, controlling principles of administrative law require the agency to identify the factual differences that are of importance to it *and* to "explain *why* these factual differences should lead to a difference in legal result or even why, as an original matter, the facts here justified a unit limited to pressmen." *Id.* at 1092, 1094. *See also Atchison, T. & S. F. Ry. v. Wichita Bd. of Trade*, 412 U.S. at 808-09. The Board's conclusory statement here, however, does not do so. It thus "cross[es] the line from the tolerably terse to the intolerably mute." *Greater Boston Television Corp. v. FCC*, 444 F.2d at 852.

Nor can the necessary explanation for the departure from prior decisions and policy be derived from the Regional Director's decision, which the Board arguably adopted by reference. *See* Pet. App. A13. To be sure, the Regional Director's decision contains a somewhat more expansive discussion than does the Board's decision of the facts of this case and the Board's prior case law. *See id.* at A15-A28. But, like the Board's decision, the Regional Director's decision fails to explain why the factual differences between this case and those prior cases should lead to a difference in legal result.

At the outset, it is important to recognize that the Regional Director placed great reliance on the Board's decision in *Continental Web Press, Inc.*, 262 N.L.R.B. 1395 (1982), a case with facts that the Regional Director characterized as "closely parallel" to those at issue here. Pet. App. A26. In doing so, however, the Regional Director did not even so much as acknowledge that the Seventh Circuit refused to enforce the Board's order in that case—in part because it found that the facts of *Continental Web Press, Inc.* were legally indistinguishable from the facts in the many cases in which the Board had said that bargaining units in the lithographic printing industry should include both pre-press and press department employees. *See Continental Web Press, Inc. v. NLRB*, 742 F.2d at 1092-94. Nor did the Regional Director so much as acknowledge that, in *Continental Web Press, Inc. v. NLRB*, the Board *denied* that it was departing from its prior decisions and, indeed, approved a Regional Director decision that "had gone so far as to say that the Board has a long-established policy of recognizing pressman as a separate unit." *Id.* at 1093. It is arbitrary and capricious for the Board to rely on a Regional Director decision that purports to justify a change from prior policy by referring to a Board decision that has been repudiated by a distinguished court of appeals and that itself denies that such a prior policy ever existed.

Moreover, the Regional Director did not even attempt to explain the legal significance of the facts to which he pointed. The Regional Director made much of the fact that, as in *Continental Web Press, Inc.*, Petitioner's press room employees do not have much contact with employees of other departments, do not tend to transfer to other departments, have no significant interchange with other employees, have different shift times, and wear different uniforms. Pet. App. A26-A27. He also made much of the fact that, in contrast to the situation in *Moore Business Forms, Inc.*, 216 N.L.R.B. 833 (1975), Petitioner's press room employees work under a separate direct supervisor, do not interact much with pre-press room employees, and have little occasion to visit the pre-press room. Pet. App. A27. But, again, identifying factual differences between cases is not the same as explaining "*why* these factual differences should lead to a difference in legal result." *Continental Web Press, Inc. v. NLRB*, 742 F.2d at 1094. And it is the latter explanation that an administrative agency like the Board must give in order properly to depart from prior decisions and policy. *Accord, Secretary of Agriculture v. United States*, 347 U.S. at 652-54; *Atchison, T. & S. F. Ry. v. Wichita Bd. of Trade*, 412 U.S. at 808. Here, "by a course of adjudications extending over many years, the Board succeeded in developing a clear policy that seems applicable to this case; and to discard the policy without explanation would be arbitrary." *Continental Web Press, Inc. v. NLRB*, 742 F.2d at 1093.

Indeed, it is difficult to see how the factual differences to which the Regional Director pointed could be used properly to justify a departure from the Board's traditional policy of including pre-press employees in the lithographic printing industry in the same bargaining unit as press employees. As the Seventh Circuit explained in its decision in *Continental Web Press, Inc. v. NLRB*, 742 F.2d at 1094, "[t]he facts of this case apparently are the same as the facts of many other cases that the Board has

decided the opposite way," and the Board cannot properly treat similar situations differently. *See Local 777, Democratic Union Organizing Comm. v. NLRB*, 603 F.2d 862, 870 (D.C. Cir. 1978). Moreover, even to the extent that the facts of this case are arguably different than the facts of the other cases that the Board has decided, there does not appear to be any basis grounded in legislative policy—and certainly the Board has not articulated such a basis—for treating these factual differences as sufficiently significant to justify a different legal result; as the Seventh Circuit concluded, when viewed from the perspective of whether the pre-press and press room employees have a sufficiently distinct "community of interest" in wages, fringe benefits and working conditions, "all these differences seem small and unimportant," and some "seem[] utterly trivial." *Continental Web Press, Inc. v. NLRB*, 742 F.2d at 1091-92. Or, as another court of appeals said about the Board's reasons in another context, "the reasons advanced for ignoring the rule in this one case range from unconvincing to trivial." *International Union (UAW) v. NLRB*, 459 F.2d at 1341.

While the Board should be free to adopt any rational policy that it wants with respect to the appropriate bargaining unit(s) for pre-press and press room employees in the commercial lithographic printing industry, "[j]udicial supervision to ensure that agencies are 'faithful and not indifferent to the rule of law' is too vital for us to be satisfied with [such] a few illogical or hastily concocted rationalizations." *Id.* at 1341 (footnote omitted). On the contrary, if the Board's discretion is to be exercised consistent with traditional rules of administrative law, the Board must provide the "rational connection between the facts and judgment required to pass muster under the arbitrary-and-capricious standard." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 56. *See NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 442-43. The Board has not done so here.

III. THE POST-HOC RATIONALIZATIONS OF THE COURT OF APPEALS AND THE SOLICITOR GENERAL CANNOT AND DO NOT SUBSTITUTE FOR THE REASONED EXPLANATION THAT THE BOARD WAS REQUIRED BUT FAILED TO PROVIDE

Rather than evaluate whether the Board's purported explanation for its departure from prior precedent was adequate, the court below and the Solicitor General offer their own explanations for the bargaining unit that the Board has approved. But these post-hoc rationalizations cannot and do not substitute for the reasoned explanation that the Board was required but failed to provide for its departure from prior precedents and policy.

With respect to the decision of the court of appeals, it is clear that the court below did not require the Board to explain the basis for its departure from prior decisions and policy or, indeed, even to explain the basis for its decision at all. The court simply determined on its own that "[t]he record supports a finding of differences in working conditions sufficient to support a conclusion that the pressmen at the Company enjoy a distinct community of interests." Pet. App. A3. But this Court has long held that courts "may not supply a reasoned basis for the agency's action that the agency itself has not given." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 44. *See also SEC v. Chenery Corp.*, 332 U.S. 194, 196 (1947). And, in all events, the court of appeals did not explain either how its conclusion is reconcilable with prior decisions of the Board holding on similar factual records that pre-press and press room employees in the lithographic printing industry should nevertheless be included in the same bargaining unit. And, of course, the court did not explain why the Board should be allowed to depart without explanation from those prior decisions in this case.

With respect to the opposition brief of the Solicitor General, it is clear that the Solicitor General cannot offer

any proper defense of the Board's decision here. His suggestion (Opp. Br. 9-10) that the Board does not even have a prior lithographic industry bargaining unit practice from which it could have departed is at odds with the Board's decisions here and elsewhere. *See* Pet. App. A13; *Earl Litho Printing Co., Inc.*, 116 N.L.R.B. 1538, 1539 (1956) ("[t]he Board has consistently held that all employees engaged in the lithographic production process form a cohesive unit for collective-bargaining purposes and has established units which included all such employees without regard to the specific skills of the employees or the departmental nature of the unit sought."); *A.B. Hirschfeld Press, Inc.*, 96 N.L.R.B. 1068, 1069 (1951) ("absent unusual circumstances, all employees engaged in the lithographic process form an indivisible entity for the purposes of collective bargaining"). Likewise, his suggestion (Opp. Br. 10-13) that the facts in the record warrant a departure from any "traditional" practice that the Board may have had constitutes an improper effort to substitute "appellate counsel's *post hoc* rationalizations for agency action." *Burlington Truck Lines v. United States*, 371 U.S. at 168. *See also NLRB v. Metropolitan Life Ins. Co.*, 380 U.S. at 443-44. And, in all events, the Solicitor General merely relies on the same shopworn factual distinctions that the Regional Director and the court of appeals relied upon—distinctions that appear trivial and that do not begin to explain why Petitioner's employees should be treated differently than the employees of other lithographic industry employers who have in the past come before the Board.

In the final analysis, neither the court of appeals nor the Solicitor General can remedy the error of the Board in this case. It is the Board's discretion that must be exercised and that is subject to judicial review. Only the Board can provide the reasoned explanation that would justify a departure from its prior decisions and policies. But even the Board can do so only by forthrightly explaining why it is abandoning its prior decisions and

policies; reliance on trivial factual distinctions will not suffice. To allow such trivial and/or unexplained distinctions to suffice would mean that, contrary to all principles of modern administrative law, the Board has become the " 'monster which rules with no practical limits on its discretion.' " *Burlington Truck Lines, Inc. v. United States*, 371 U.S. at 167 (citation omitted). *See also* L. Jaffe, *supra*, at 588.

The threat from the Board is not limited to unit determination issues. The Board has departed from prior policy without justifying its departure in numerous contexts. *See, e.g., International Union (UAW) v. NLRB*, 459 F.2d 1329 (Board attempted to abandon its prior policy of applying the 'adverse inference' rule in Board proceedings); *NLRB v. International Union of Operating Eng'rs*, 460 F.2d 589 (Board attempted to reverse its prior position that individual managers would not be liable for back pay judgments). Strong and decisive action is needed from this Court to discourage the kind of "inadequate thinking, failure to face issues, hidden expediencies, or downright dishonesty" that produced the arbitrary and capricious decisions of the Board in this case and elsewhere. L. Jaffe, *supra*, at 588. Indeed, such action is needed to send a signal to administrative agencies throughout our government that administrative power must be exercised carefully and openly if it is properly to be exercised at all.

CONCLUSION

The judgment of the court below should be reversed.

Respectfully submitted,

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No. 93-892

In the Supreme Court of the United States

OCTOBER TERM, 1993

NTA GRAPHICS, INC., PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MOTION TO VACATE AND REMAND

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NATIONAL LABOR RELATIONS BOARD

ON WRIT OF CERTIORARI
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MOTION TO VACATE AND REMAND

The Solicitor General, on behalf of the National Labor Relations Board (the Board), respectfully moves that the judgment of the court of appeals be vacated as moot and the case remanded to that court with instructions to remand it to the Board to vacate the administrative order and the certification on which it is based.

1. Based upon a Board election held on September 25, 1987, the Board certified the Union[1] as the collective-bargaining representative of a unit comprised of petitioner's pressroom employees. To obtain judicial review of the validity of the Board's unit determination, petitioner refused to bargain with the Union. The Board

[1] Local 289, Graphic Communications International Union, AFL-CIO. The Union is not a party before this Court.

found that petitioner's refusal violated Section 8(a)(5) of the National Labor Relations Act, 29 U.S.C. 158(a)(5), and issued an order providing, inter alia, that petitioner cease and desist from refusing to bargain with the Union and that petitioner "[o]n request, bargain with the Union as the exclusive representative" of the identified unit. *NTA Graphics, Inc.*, Case No. 8-CA-24277; Pet. App. A9-A10. On June 21, 1993, the Sixth Circuit enforced the Board's order, holding that the Board had not abused its discretion in making its unit determination. Pet. App. A3-A4. On February 28, 1994, this Court granted petitioner's petition for a writ of certiorari. The essential issue presented by the petition is whether the Board's determination of a separate bargaining unit of pressroom employees in this case constitutes an abuse of discretion and represents an unexplained departure from an established rule that, in the lithographic printing industry, a lithographic production bargaining unit must include, at a minimum, both pressroom and preparatory employees.

2. On April 20, 1994, the Union advised petitioner, by letter, that, in view of the passage of time and employee turnover since the 1987 Board election, it "disclaims any interest in representing the bargaining unit of press room employees of NTA Graphics, Inc.," and that this disclaimer of interest "is unequivocal" and "is intended to negate any duty to bargain the Employer may have as a result of the NLRB's Decision and Order in Case No. 8-CA-24277 and the 6th Circuit's Order of June 21, 1993," enforcing the Board's bargaining order.[2] The Union indicated that it had been reluctant to reach this decision, but after review of the history of the dispute, it con-

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[2] The Union's letter is reproduced in the Appendix, *infra*.

cluded it "*cannot* effectively represent" the employees in question.

In view of the Union's disclaimer, the order that petitioner cease and desist from refusing to bargain with the Union and that petitioner bargain with the Union on request, is moot because the Union is no longer making such a request.[3] Moreover, the question whether a unit of petitioner's pressroom employees is an appropriate unit for bargaining has become moot, for the only union that was certified to represent employees in that unit has unequivocally disclaimed any further interest in representing that unit. If a future request by a union for a bargaining order were to arise, the Board would consider the question of an appropriate bargaining unit on the basis of its findings of the facts existing at that time.

3. Accordingly, the Court should vacate the judgment of the court of appeals as moot and remand the case to that court with instructions to remand it to the Board to vacate the Board's order in Case No. 8-CA-24277 and to vacate the certification of the Union on which that order is based. See *United States* v. *Munsingwear*, 340 U.S.

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[3] The remaining portions of the Board's order (Pet. App. A9-A10) are likewise moot because they have no practical significance absent the Union's continued interest in representing petitioner's employees.

36, 39-40 (1950); *Mechling Barge Lines* v. *United States*, 368 U.S. 324, 329-331 (1961); *Board of Governors of the Federal Reserve System* v. *Security Bancorp*, 454 U.S. 1118 (1981).

Respectfully submitted.

DREW S. DAYS, III
Solicitor General

FREDERICK L. FEINSTEIN
General Counsel
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MAY 1994

APPENDIX

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April 20, 1994

VIA Facsimile No. (419) 241-6894

Timothy C. McCarthy
Shumaker, Loop & Kendrick
North Courthouse Square
1000 Jackson
Toledo, OH 43624-1573

Re: NTA Graphics, Inc. and GCIU Local 289

[Page 1]
Dear Mr. McCarthy:

I am writing you on behalf of GCIU Local 289 to advise you that the Union disclaims any interest in representing the bargaining unit of press room employees of NTA Graphics, Inc. This disclaimer is intended to negate any duty to bargain the Employer may have as a result of the NLRB's Decision and Order in Case No. 8-CA-24277 and the 6th Circuit's Order of June 21, 1993 in *NLRB* v. *NTA Graphics Inc.*, Case No. 92-6085.

This disclaimer of interest is unequivocal. The Union reluctantly has reached this decision after reviewing the history of our dispute and concluding that it *cannot* effectively represent the press room employees at NTA Graphics.

The Union originally petitioned for an election on June 12, 1987. The NLRB found that a unit of press room employees was appropriate. There were approximately 40 employees in the press room unit. An election was conducted on August 25, 1987. The Union narrowly won the election by a 7 to 6 margin, because the Employer successfully challenged the ballots of 16 Union supporters who had been terminated before the election. The 6th Circuit, in Case No. 92-5083, concluded that the Employer had *not* unlawfully discharged those 16 employees and denied enforcement of the Board's order directing their reinstatement. This Mandate issued March 17, 1993.

In June of 1993, 9 more press room employees were laid off/terminated. Their layoffs/terminations are the subject of another NLRB complaint (Case No. 8-CA-25528) scheduled for hearing on August 16, 1994. The Union is satisfied that (assuming the NLRB ultimately directs reinstatement of those 9 employees) only one or two will choose to return to employment at NTA Graphics.

[Page 2]

In addition to the loss of 16 supporters in June of 1987 and 9 supporters in June of 1993, there also has been considerable turnover among remaining unit employees over the last several years.

In short, since the 6th Circuit's Order directing bargaining on July 21, 1993, it has become clear to the Union that it cannot effectively represent press room employees at NTA Graphics. In August of 1987, the Union won the election by a one vote margin. The turnover of unit employees and the passage of time has dissipated employee interest in Union representation. The Union has no relationship to the current press room employees at NTA Graphics. Assuming the United States Supreme Court enforces the 6th Circuit's Order in Case No. 92-6085, the Union's first opportunity to bargain will be in 1995. The Union never imagined when it began this process in June of 1987 that the opportunity to bargain could be delayed until 1995.

I saw in the February 17, 1994 addition of the Toledo Blade a legal notice that NTA Graphics has a tax arrearage of over $300,000.00. We believe it is time to call it a day. We are not interested in subjecting NTA Graphics to

additional legal expense for no purpose. The Union cannot represent press room employees at NTA Graphics.

Very truly yours,

KLIMIST, MCKNIGHT, SALE,
MCCLOW & CANZANO, P.C.

ss/ Samuel C. McKnight
Samuel C. McKnight

SCM/mmk

cc: Frederick J. Calatrello
Regional Director, NLRB Region 8
Via Facsimille No. (216) 522-2418

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No. 93-892

IN THE
Supreme Court of the United States
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NTA GRAPHICS, INC.,
Petitioner,
v.
NATIONAL LABOR RELATIONS BOARD,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITIONER'S OPPOSITION TO MOTION TO VACATE AND REMAND

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IN THE

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---

PETITIONER'S OPPOSITION TO MOTION TO VACATE AND REMAND

Petitioner NTA Graphics, Inc. ("Company") respectfully requests this Court to deny the motion of the National Labor Relations Board ("Board") to vacate the judgment of the court of appeals as moot. There remains a substantial controversy between the Board and the Company that merits resolution by this Court.

1. The Board's predicate for claiming mootness is the disclaimer of interest sent to the Company by representatives of Graphic Communications International Union, Detroit/Toledo/Lansing Local 289, AFL-CIO-CLC ("Union"). However, this disclaimer does little to attenuate the controversy between the parties. The disclaimer prevents the Union from representing employees in the previously-certified bargaining unit for, at most, six months. *E.g., Richmond Motor Car Dealers Ass'n,* 116

N.L.R.B. 1761 (1956). The disclaimer does not preclude the Union from again requesting the Board to certify it as the exclusive representative of the Company's pressroom employees after an elapse of six months, nor does the disclaimer preclude other labor organizations from demanding recognition—at any time—as the exclusive representative of employees in the disputed pressroom unit. *See, e.g., Hartz Mountain Corp. v. Dotson,* 727 F.2d 1308 (D.C. Cir. 1984) (after one union disclaimed interest another union successfully petitioned for an election in the same bargaining unit).

2. In any event, as the Board itself concedes, the issue to be resolved in this case is not whether *this* Union is entitled to represent the Company's employees, but whether "the Board's determination of a separate bargaining unit of pressroom employees . . . constitutes an abuse of discretion." Board Motion to Vacate at 2. This is a live issue for, absent a contrary directive from this Court, the Board will follow its bargaining unit determination in the instant case and in *Continental Web Press, Inc.*, 262 N.L.R.B. 1395 (1982), *enf. denied* 742 F.2d 1087 (7th Cir. 1984), when this Union or another labor organization demands recognition as the representative of the Company's pressroom employees. The Board has not disavowed *Continental Web Press.* Furthermore, the Board traditionally looks to its prior bargaining unit decisions with respect to a particular employer when making subsequent bargaining unit determinations for that employer, *see, e.g., Michigan Bell Telephone Co.*, 217 N.L.R.B. 428 (1975), and the Board follows this practice even when no certification resulted from the prior bargaining unit determination. *E.g., Esgro Anaheim, Inc.*, 150 N.L.R.B. 401, 402, 407 (1964) (Board orders election in same units in which union lost previous election). Accordingly, vacation of the Union's certification in the instant case diminishes only slightly the likehood that the Company will be forced to deal with an inappropriate bargaining unit.

3. One way this case could be mooted is if the Board were to confess error and renounce its decisions in *Continental Web Press* and the instant case (or, at the very least, rationally explain why in these cases it deviated from its traditional rule concerning bargaining units in the lithographic printing industry). In a case cited by the Board in its motion, *Mechling Barge Lines v. United States*, 368 U.S. 324 (1961), this Court held that a case involving the Interstate Commerce Commission was mooted because "the Commission has, on this appeal, conceded that it is obliged to make findings and that the challenged order is fatally defective because no supporting findings were made," and, furthermore, the Commission "represent[ed] that it has amended its practice accordingly." *Id.* at 330. The Board has not made any similar admission nor provided any similar reassurance with respect to its erroneous determinations in *Continental Web Press* and the instant case.

4. Therefore, this case in its present posture is akin to labor cases such as *Edward J. DeBartolo Corp. v. NLRB*, 463 U.S. 147, 153 n.5 (1983) and *Super Tire Engineering Co. v. McCorkle*, 416 U.S. 115, 121-27 (1974), which this Court regarded as presenting actual controversies even though the employers in those cases were no longer confronted with any injurious conduct when the cases were before the Court. In both cases, government agencies had adopted and maintained positions that threatened harm to the employer's interests. The Court concluded that the cases were not moot because of the expectation that the challenged conduct would recur in the future, even though there was no certainty that there would be another occasion for the government agencies to apply their disputed policies. As the Court said in *McCorkle*, "the challenged government activity in the present case is not contingent, has not evaporated or disappeared, and, by its continuing and brooding presence, casts what may well be a substantial adverse effect on the interests of the petitioning parties." 416 U.S. at 122.

Similarly, in the instant case the Board's refusal to adhere to settled principles of administrative law when making bargaining unit determinations provides a sufficient basis for concluding that the case is not moot.

5. As if the foregoing were not sufficient to deny the Board's motion, conclusive proof of this case's vitality is provided by the Board's own decision in *Wells Fargo Armored Service Corp.*, 290 N.L.R.B. 936 (1988). In that case, the employer argued that a union's disclaimer of interest mooted a Board bargaining order. The Board rejected the employer's contention, reasoning that another union might seek to represent the employees. The Board concluded that an order still effectuated the policies of the Act as the employer had "an obligation to bargain in good faith with *any* other labor organization that is duly selected by the unit employees to represent them." *Id.* at 936 n.1 (emphasis added). The Board has not, and indeed cannot, explain why a disclaimer of interest moots this case, but did not moot the controversy in *Wells Fargo*. Industrial relations have not changed so much in six years that what the Board considered a realistic probability in 1988 now can be ignored as unduly speculative.

6. It is because the Company can predict with some confidence that it has not seen the end of union bargaining demands that it is compelled to see this litigation through to the end. In its disclaimer, the Union shed crocodile tears over the funds expended by the Company in contesting a Board order that created an inappropriate, unworkable bargaining unit out of the Company's pressroom. Appendix to Board Motion to Vacate at 3a-4a. The Company has expended a considerable amount of money, and precisely for that reason it will be unable to sustain another multi-year ordeal of litigation if the judgment below is vacated as moot and the Union, or some other labor organization, appears at the Company's door this fall requesting bargaining in an inappropriate unit. The Union's disclaimer does not bind the Board, does not bind other labor organizations and binds the Union for

only another five months. Absent a Board decision repudiating its bargaining unit determination in this case, this case has not been mooted.

Therefore, the Court should deny the Board's motion.

Respectfully submitted,

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